

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

## REGION 6 1445 ROSS AVENUE, SUITE 1200 DALLAS, TX 75202-2733

SEP 2 3 1996

Ms. Wendy Rozacky, Manager
Multi-Media Section
Enforcement Division
Texas Natural Resource Conservation
Commission
P.O. Box 13087
Austin, TX 78711-3087

Dear Ms. Rozacky:

The Environmental Protection Agency (EPA) reviewed the August 12, 1996, letter requesting an alternate schedule to November 19, 1996, in issuing formal enforcement to Phelps Dodge Refining Corporation - TXD007397144. The facility was inspected on February 28, 1996, and significant non-compliance violations were documented. The letter provides sufficient justification for an alternate schedule; therefore, EPA concurs with the request.

If you have any questions regarding this matter, please call me at (214) 665-2192, or your staff may call Ms. Katy Griffith at (214) 665-8531.

Sincerely yours,

Mark W. Potts, Chief

ALONM Section

Hazardous Waste Enforcement Branch

cc: Mr. J. Mac Villas, Team Leader
Texas Natural Resource Conservation
Commission

Barry R. McBee, Chairman R. B. "Ralph" Marquez, Commissioner John M. Baker, Commissioner Dan Pearson, Executive Director



# TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

August 12, 1996

Mr. Mark Potts Chief, ALONM Section (6EN-HF) Hazardous Waste Enforcement Branch Compliance Assurance and Enforcement Division Environmental Protection Agency, Region VI 1445 Ross Avenue Dallas, Texas 75202-2733

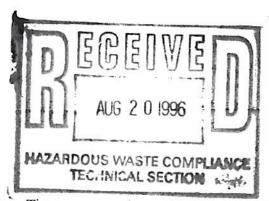
Re:

Phelps Dodge Refining Corporation

EPA Identification Number: TXD007397144

TNRCC Solid Waste Registration Number: 30104

Alternate Schedule for Formal Enforcement Response Time



Dear Mr. Potts:

Pursuant to the fiscal year 1995/1996 Memorandum of Understanding between the Texas Natural Resource Conservation Commission and the Environmental Protection Agency (EPA) Region VI office, the TNRCC has determined that an alternate schedule is necessary for the case referenced above. The justification for the alternate schedule is that this case is a multimedia enforcement action requiring additional coordination of several program areas within the TNRCC. An alternate schedule of November 19, 1996 has been established. This is an additional 90 days from the original significant non-complier deadline of August 21, 1996.

If you have any questions, please contact Sabelyn Pussman at the letterhead address (mail code 219) or at (512) 239-6061.

Sincerely.

Wendy Rozacky, Manager/

Multi-Media Section **Enforcement Division** 

WJR/SP

Pat Cupp, Grants and Authorization Section (6H-Ct), EPA CC:

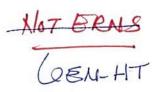
Katie Griffith, EPA Texas RCRA Oversight Coordinator Grants and Authorization Section, (6H-HS)

Victor Ayala, TNRCC Region 6 Office - El Paso

Patricia Capps, Staff Attorney, Litigation Support Division

Sabelyn A. Pussman, Multi-Media Section, Enforcement Division





Refining and Rod Mill • P. O. Box 20001, El Paso, Texas 79998 • (915) 778-9881

January 28, 1998

Environmental Protection Agency Fountain Place 12th Floor, Suite 1200 1445 Ross Avenue Dallas, TX 75202-2733

Subject:

Exception Report for State Manifest Document Number 01098297

Reference:

Phelps Dodge Refining Corporation

TNRCC Solid Waste Registration No. 30104 EPA Identification No. TXD007397144



The Phelps Dodge Refining Corporation did not receive a copy of Uniform Hazardous Waste Manifest, State Manifest Document Number 01098297, with the handwritten signature of the operator of the designated facility within 45 days. Please find attached a copy of the referenced manifest.

Late in the afternoon of January 19, 1998, I was contacted by Ms. Debbie Payne of Disposal Systems, Inc. (DSI), who informed me that DSI had not received the railcar UTLX 11439. I contacted the customer service representative for Union Pacific (UP) Transportation Co., Ms. Betty Baron, and left a detailed message on the voice mail system to explain that the railcar had not been received and that I would have to file an Exception Report if the waste en route was not received and disposed of by the 45<sup>th</sup> day after the manifested date. I requested a return call. At the same time, I asked the Phelps Dodge Shipping Department to help me trace the railcar. I was informed that the railcar was still in El Paso and that it was scheduled to arrive in Englewood, Texas on January 23<sup>rd</sup>. I contacted Ms. Payne at DSI, who said she would be able to unload the waste on January 27<sup>th</sup>. Ms. Baron of UP never returned my call.

On January 27, 1998, I contacted DSI to see if the waste had arrived and if it had been processed. I was informed that Ms. Payne had been tracking railcar UTLX 11439 and it was still in El Paso. I immediately contacted Ms. Baron of UP who verified that the railcar was indeed in El Paso and when asked about the delay, she responded that there was severe congestion in El Paso that caused the cars not to be switched.

Please contact me at (915) 775-8815 if there are questions. Thank you for your time and attention to this matter.

Sincerely,

Aileen Law

**Environmental Engineer** 

down land

xc:

Executive Director, TNRCC, MC-109, P. O. Box 13087, Austin, TX 78711-3087

R. S. Barrio D. Wood File

CERTIFIED MAIL: P 079 999 048
Return Receipt Requested

# TEXAS NATURAL RESOURCE CONSERVATION COMMISSION P.O. Box 13087

Austin, Texas 78711-3087



Please print or type. (Form designed for use on elite (12-pitch) typewriter.)

Form approved, OMB No. 2050-0039, expires 09/30/9

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	P.O. Box 20001, ElPose, Ty. 79997				B. State Generator's ID						
	4. Generator's Phone (9/5 ) 777-9771				30/04						
					C. State Transporter's ID 9/320 D. Transporter's Phone 7/3-223-6304						
	7-Transporter 2 Company Name	8. US EPA ID Nu	mber	E. State Tran	sporter's ID	ID 4/268					
	9. Designated Facility Name and Site Address	Resource Transport Service TXD.9.825.5.28.7					F. Transporter's Phone 7/3 - 930 - 25 25 G. State Facility's ID				
	Dispesol Systems, Irc P.C. Box 1914, 2525 Bas	ss 10. US EPA ID Nu	32299								
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# TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING PHELPS DODGE	§	TEXAS NATURAL RESOURCE
REFINING CORPORATION, SWR NO.	§	
30104, WQ PERMIT NO. 0000461	§	CONSERVATION COMMISSION

# AGREED ORDER DOCKET NO. 96-1635-MLM-E

#### I. JURISDICTION & STIPULATIONS

At its \_\_\_\_\_\_ agenda, the Texas Natural Resource Conservation Commission ("the Commission" or "TNRCC") considered the Agreement of the parties, resolving an enforcement action regarding Phelps Dodge Refining Corporation ("Phelps") under the authority of the Texas Solid Waste Disposal Act, Tex. Health and Safety Code, Ann., Chapter 361 ("the Act") and Tex. Water Code, Chapters 5 and 26 ("the Code"). The Executive Director of the TNRCC, through the Enforcement Division, and Phelps represented by Dalva L. Mollenberg of the law firm of Gallagher & Kennedy appear before the Commission and together stipulate that:

- 1. Phelps owns and operates a facility on 6999 North Loop Dr. in El Paso County, Texas ("the Facility").
- 2. The Facility involves the management and disposal of industrial solid waste and hazardous waste as defined in Chapter 361 of the Act.
- 3. The Commission and Phelps agree that the Commission has jurisdiction to enter this Agreed Order, and that Phelps is subject to the Commission's jurisdiction.
- 4. Phelps received notice of the violations alleged in Section II ("Allegations") on or about July 8, 1996.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Phelps of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 6. Administrative penalties in the amount of THIRTY FOUR THOUSAND FOUR HUNDRED DOLLARS (\$34,400.00) are assessed by the Commission in settlement of the violations

alleged in Section II ("Allegations"). Phelps has paid TWENTY FOUR THOUSAND EIGHTY DOLLARS (\$24,080.00) of the administrative penalties and TEN THOUSAND THREE HUNDRED TWENTY DOLLARS (\$10,320.00) is deferred contingent upon Phelps timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Phelps fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Phelps to pay all or part of the deferred penalty.

- 7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director of the TNRCC and Phelps have agreed on a settlement of the matters involved in this enforcement action, subject to the approval of the Commission. The Executive Director recognizes that Phelps has implemented the following corrective measures at the Facility in response to this enforcement action:
  - a. An appropriation for the demolition of the Copper Sulfate Small System ("Small System") was approved on April 10, 1996 and the remediation was completed in December, 1996. Phelps has submitted a demolition and decontamination report for the Small System which includes the quantity and final disposition of the residual waste materials as well as the decontamination materials. A concrete slab was poured in the area where the Small System had been located.
  - b. As-built plans for the concrete slab of the Copper Sulfate Small System have been submitted.
  - c. The demolition of the Baghouse began on August 22, 1996 and was completed in November, 1996. Phelps has submitted a demolition and decontamination report for the Baghouse which includes the quantity and final disposition of the residual waste materials as well as the decontamination materials.
  - d. A waste determination was done on the filters used in the cleaning machines on June 21, 1996. These filters were listed on the Notice of Registration on July 1, 1996 under *Filters used in the Scrap Metal*.
  - e. A waste determination was done on the fluorescent tubes on June 20, 1996. The tubes were listed on the Notice of Registration on June 20, 1996 under Spent Fluorescent/HID lamps.

- 9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Phelps has not complied with one or more of the terms and conditions set forth in this Agreed Order.
  - 10. This Agreed Order is not intended to become a part of Phelps' compliance history.
- 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all terms and conditions set forth in the order, whichever is later.

### II. ALLEGATIONS

Phelps, as owner and operator of the Facility, is alleged to have violated:

- Rule 30 TEX. ADMIN. CODE Section 335.4 (General Prohibition)/ Texas Water Code Section 26.121 - (Unauthorized Discharges Prohibited) related to the potential unauthorized discharge of copper sulfate, selenium baghouse dust, and metals contamination from the cardboard boxes observed at the Copper Sulfate Small System.
- 2. Rule 30 TEX. ADMIN. CODE Section 335.6 (Notification Requirements) Phelps has failed to notify the TNRCC of storage, processing, or disposal activities of industrial solid waste or municipal hazardous waste for the following waste streams:
  - a. the selenium circulation tank off gas scrubber effluent;
  - b. wet chlorination tail liquor from the Precious Metals Plant;
  - c. lime scrubber effluent from the Precious Metals Plant;
  - d. soiled cardboard and paper towels observed in a 55-gallon drum near the filter press for the selenium circulation tanks;
  - e. Fiber-Frax filter media used in roasters in the Slimes Plant;
  - f. filter columns for the soda-ash scrubbers outside to the west of the Slimes building;
  - g. contaminated filter press media from the Slimes Plant, the wastewater treatment plant presses, and the Precious Metals Plant presses;
  - h. filters used in the cleaning machines; and
  - i fluorescent tubes.
- 3. Rule 30 TEX. ADMIN. CODE Section 335.62(a)(1)(A) (Hazardous Waste Determination and Waste Classification)/ 40 Code of Federal Regulations (CFR)

Section 262.11 (Hazardous Waste Determination) - Phelps has failed to do a waste determination on the following waste streams:

- a. the selenium circulation tank off gas scrubber effluent;
- b. wet chlorination tail liquor from the Precious Metals Plant;
- c. lime scrubber effluent from the Precious Metals Plant;
- soiled cardboard and paper towels observed in a 55-gallon drum near the filter press for the selenium circulation tanks;
- e. Fiber-Frax filter media used in roasters in the Slimes Plant;
- f. filter columns for the soda-ash scrubbers outside to the west of the Slimes building;
- g. contaminated filter press media from the Slimes Plant, the wastewater treatment plant presses, and the Precious Metals Plant presses;
- h. filters used in the cleaning machines; and
- i. fluorescent tubes.
- 4. Rule 30 TEX. ADMIN. CODE Section 335.69(a)(1)(A) (Accumulation Time)/30 TEX. ADMIN. CODE Section 335.69(a)(3) & 40 CFR Section 262.32 (Marking)/Section 265.173 (Management of containers) related to Phelps failure to adequately label and store hazardous waste containers. The soiled cardboard and paper towels observed in a 55-gallon drum near the filter press for the selenium circulation tanks were sampled by the investigators and determined to be hazardous.

#### III. DENIALS

- 1. Phelps specifically denies any unauthorized discharges as alleged in Section II ("Allegations") Item 1 above. Phelps alleges that the described materials were contained within its process areas and property and were not discharged.
- 2. Phelps specifically denies that it failed to notify the TNRCC of storage, processing or disposal activities of industrial solid waste or municipal hazardous waste as alleged above. Phelps alleges that some or all of the materials listed in Section II ("Allegations") Item 2 above were identified in notifications submitted by Phelps to the TNRCC. Phelps denies that the materials listed in Section II ("Allegations") Item 2 above are "solid wastes." Phelps further alleges that the listed materials are excluded and/or exempt from regulation under the cited provisions.
- 3. Phelps specifically denies that it failed to perform waste determinations as alleged in Section II ("Allegations") Item 3 above. Phelps denies that the materials listed in Section II ("Allegations") Item 3 above are "solid wastes." Phelps further alleges that some or all of the

materials listed in in Section II ("Allegations") Item 3 above are excluded and/or exempt from regulation as "solid wastes" and/or "hazardous wastes."

- 4. Phelps specifically denies that it failed to adequately label and store hazardous waste containers as alleged in Section II ("Allegations") Item 4 above. Phelps denies that the materials listed in in Section II ("Allegations") Item 4 above are solid wastes. Phelps further alleges that some or all of the materials listed in Section II ("Allegations") Item 2 above are excluded and/or exempt from regulation as "solid wastes" and/or "hazardous wastes."
- 5. To the extent not covered by the specific denials set forth above, Phelps generally denies each allegation in Section II ("Allegations") above.

#### IV. ORDER

1. It is, therefore, ordered by the TNRCC that Phelps pay administrative penalties as set forth in Section I, Paragraph 6 above. The imposition of this administrative penalty resolves only those matters described here. The Commission shall not be constrained in any manner from considering corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be sent with the notation "Re: Phelps Dodge Refining Corporation, Docket No. 96-1635-MLM-E," and shall be made out to "TNRCC" and mailed to:

Financial Administration Division, Revenues Attention: Cashier's Office, MC 214 Texas Natural Resource Conservation Commission P.O. Box 13088 Austin, Texas 78711-3088

- 2. It is further ordered that Phelps shall undertake certain actions as follows:
  - a. Within 90 days of the effective date of this Agreed Order, Phelps shall submit a proposal for the assessment and remediation of contamination which may have occurred as a result of the unauthorized discharge of copper sulfate, selenium baghouse dust, metals contamination from the cardboard boxes observed at the Copper Sulfate Small System, and the discharge of industrial solid waste onto the concrete around the No. 6 sump pump. The proposal shall be submitted in accordance with 30 TEX. ADMIN. CODE Chapter 335 Subchapters A and S, also known as the Commission's Risk Reduction Rules.
  - b. Within 30 days of the effective date of this Agreed Order, Phelps shall submit a demolition and decontamination report for the Baghouse and the Copper Sulfate

Small System. This report shall include the quantity and final disposition of the residual waste materials as well as the decontamination materials (i.e., sand-blast grit).

- c. Within 30 days of the effective date of this Agreed Order, Phelps shall submit as-built plans of the ramp and containment area at the Copper Sulfate Small System.
- d. Within 120 days of the effective date of this Agreed Order, Phelps shall submit documentation which indicates the final disposition of the concrete to be removed from around the No. 6 sump pump.
- e. Within 90 days of the effective date of this Agreed Order, Phelps shall certify compliance with the requirements of 30 TEX. ADMIN. CODE Section 335.6. Certification shall be provided in writing and must demonstrate that Phelps has provided notification to the Commission concerning all wastes generated at the Facility including but not limited to:
  - 1. the selenium circulation tank off gas scrubber effluent;
  - 2. wet chlorination tail liquor from the Precious Metals Plant;
  - 3. lime scrubber effluent from the Precious Metals Plant;
  - 4. soiled cardboard and paper towels observed in a 55-gallon drum near the filter press for the selenium circulation tanks;
  - 5. Fiber-Frax filter media used in roasters in the Slimes Plant;
  - 6. filter columns for the soda-ash scrubbers outside to the west of the Slimes building;
  - 7. contaminated filter press media from the Slimes Plant, the wastewater treatment plant presses, and the Precious Metals Plant presses:
  - 8. filters used in the cleaning machines; and
  - 9. florescent tubes.
- f. Within 30 days of the effective date of this Agreed Order, Phelps shall certify compliance with the requirements of 30 TEX. ADMIN. CODE Section 335.62 and 40 CFR Section 262.11. Certification shall be provided in writing and must demonstrate that Phelps has completed a hazardous waste determination of all waste streams generated at the Facility including but not limited to:
  - 1. the selenium circulation tank off gas scrubber effluent;
  - 2. wet chlorination tail liquor from the Precious Metals Plant;
  - 3. lime scrubber effluent from the Precious Metals Plant;
  - 4. soiled cardboard and paper towels observed in a 55-gallon drum near the filter press for the selenium circulation tanks;
  - 5. Fiber-Frax filter media used in roasters in the Slimes Plant;

- filter columns for the soda-ash scrubbers outside to the west of the Slimes building;
- 7. contaminated filter press media from the Slimes Plant, the wastewater treatment plant presses, and the Precious Metals Plant presses;
- 8. filters used in the cleaning machines; and
- 9. florescent tubes.
- g. Within 30 days of the effective date of this Agreed Order, Phelps shall certify compliance with the requirements of 30 TEX. ADMIN. CODE Section 335.69(a)(1)(A) and 30 TEX. ADMIN. CODE Section335.69(a)(3) & 40 CFR Section 262.32/Section 265.173. Certification shall be provided in writing and must demonstrate that Phelps has properly labeled and stored all hazardous wastes generated at the Facility.
- h. Phelps shall notify the TNRCC El Paso Regional Office at least five (5) working days prior to conducting any field investigation, monitoring or remedial activities pursuant to sampling required by this order to allow the region personnel the opportunity to observe the activities and to split any soil, groundwater, or other samples to be collected.
- i. All plans, reports, submittals, specifications, and other documents which relate to this enforcement action shall be submitted in duplicate to:

Executive Director c/o Sabelyn Pussman, MC 219 Enforcement Division Texas Natural Resource Conservation Commission P.O. Box 13087 Austin, Texas 78711-3087

and a copy of the materials shall be submitted to:

Frank Espino, Region Manager El Paso Regional Office Texas Natural Resource Conservation Commission 7500 Viscount Blvd., Suite 147 El Paso, TX 79925

3. The provisions of this Agreed Order shall apply to and be binding upon Phelps. Phelps is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over Facility operations referenced in this Agreed Order.

- 4. If Phelps fails to comply with any of the technical requirements in this Agreed Order within the prescribed schedules, and that failure is caused by an Act of God, war, act or omission of a third person, liability that would otherwise be imposed by the Act for a violation of the terms of this Agreed Order shall not be imposed upon Phelps, as long as Phelps meets the conditions in Section 361.275 of the Act. Phelps shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Phelps shall notify the Executive Director within seven (7) days after Phelps becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize the delay.
- 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Phelps shall be made in writing to the Executive Director. Extensions are not effective until Phelps receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 6. This Agreed Order, issued by the Commission, shall not be admissible against Phelps in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this order; or (2) pursue violations of the Texas Water Code or the Texas Health and Safety Code.
- 7. The Chief Clerk shall provide a copy of this order to each of the parties. By law, the effective date of this Agreed Order is the mailing date, as provided by Rule 30 TEX. ADMIN. CODE Section 70.10 (b).

EFFECTIVE DATE

MAR 26 1997

OF THE ORDER

# SIGNATURE PAGE

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Barry R. McBee, Chairman

ATTEST:

Chief Clerk

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein.

Signature

Date

George L. Bailey

Name (Printed or typed)

Authorized representative of

Phelps Dodge Refining Corporation

Vice President

Title

Jim Phillips

Deputy Director

Office of Legal Services

Texas Natural Resource Conservation Commission

Data

# TEXAS WATER COMMISSION

TX DOOT 397144

Paul Hopkins, Chairman Ralph Roming, Commissioner John O. Houchins, Commissioner



Larry R. Soward, Executive Director

Mary Ann Hefner, Chief Clerk

James K. Rourke, Jr., General Counsel

December 11,1985

Mr. Bobby E. Stephens Phelps Dodge Refining Corporation P.O. Box 20001 El Paso, TX 79998

RE: Solid Waste Registration No. 30104

Dear Mr. Stephens:

This letter is to summarize the conference held on November 1, 1985 between the Texas Water Commission (TWC) and Phelps Dodge and to outline the company's requirements for addressing solid waste violations at the El Paso facility. Current interpretations of the mining waste exclusion [40 CFR 261.4(b) (7)] by the U.S. Environmental Protection Agency (EPA) exempt Phelps Dodge from the hazardous waste regulations, therefore the company is not required to submit a Part B permit application at this time. The TWC will provide Phelps Dodge an opportunity to withdraw the Part B permit application by submittal of an affidavit of exclusion.

As you are aware, the U.S. EPA published proposed rules in the Federal Register on October 2, 1985 (amending 40 CFR Part 261) which would, should they become final, eliminate certain wastes generated by Phelps Dodge from the mining waste exclusion, thereby requiring Phelps Dodge to manage these materials as hazardous wastes. In light of these proposed rules and Phelps Dodge present regulatory status, please indicate to the TWC within 45 days of the date of this letter your plans regarding closure or management of the existing surface impoundments, including groundwater monitoring, liners which may be in place or are planned, and any plans requiring an amendment to Wastewater Permit No. 00461.

In addition, inspections and sample collections by TWC representatives indicate stormwater runoff from Phelps Dodge plant site contains concentrations of heavy metals in excess of allowable limits. Therefore, the TWC requires that the following items be addressed in order to protect the water quality of the State:

- Provide to the TWC within 45 days of the date of this letter a plan to protect incinerator ash, slag, refractory brick, baghouse dust and other metal-containing materials from contact with runoff water.
- Within 90 days of the date of this letter submit a plan to clean up areas contaminated by solid waste. Within 90 days also submit a plan to study stormwater runoff quality after cleanup has been accomplished and the stormwater protection plan (Item No. 1 above) has been implemented. The plan should describe how and where the items listed in Attachment I will be executed.

Mr. Bobby E. Stephens December 11, 1985 Page two

- 3. Within 30 days of the date of this letter update the Notice of Registration to include all wastes and waste management facilities to include the following solid wastes: baghouse dust, slag, refractory brick and incinerator ash.
- 4. Within 30 days of the date of this letter submit proof of deed recordation of all sites at which industrial solid wastes have been disposed, including the wastewater surface impoundments.

Should you have any questions regarding this letter please contact Ms. Christy Smith of the Solid Waste Enforcement Section at 512/463-7794.

Sincerely,

Larry R. Soward Executive Director

CS/jl

#### Attachment I

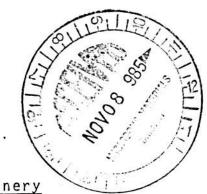
- a. Install a rain gauge on the plant site and record precipitation amounts.
- b. Collect four grab samples of runoff water during the first thirty minutes of each rainfall event at four respective locations on the site for analysis for pH and total and dissolved arsenic, copper, manganese, nickel, lead, selenium, and zinc. Discuss sample collection, analysis, quality assurance/quality control and how personnel will be alerted as to when samples should be collected.
- c. Make arrangements with the TWC District 10 Office to split samples during rainfall events.
- d. Submit quarterly reports for a period of 12 months to include precipitation amounts and sample results.
- e. Phelps Dodge and the Texas Water Commission shall review the data for adequacy at the end of this period and discuss mitigation methods which may be necessary.

Profiles

Constant El Paso Works • P.O. Box 20001, El Paso, Texas 79998 • (915) 778-9881

November 7, 1985

Mr. Minor Hibbs
Chief, Hazardous Waste
Permits Section
Texas Water Commission
1700 North Congress Avenue
Austin, TX 78711



Re: Phelps Dodge El Paso Refinery

Dear Mr. Hibbs:

This will confirm your statement at our meeting on November 1, 1985, that the Phelps Dodge El Paso Refinery is not subject to hazardous waste regulation by virtue of the Bevill Amendment as currently interpreted by EPA. At that meeting you requested that the El Paso Refinery withdraw its RCRA Bart B permit application. Accordingly, we enclose the completed withdrawal of appication form and hereby withdraw the application.

However, we recognize that the exemption of the El Paso Refinery from hazardous waste regulation may be short-lived. On October 2, 1985, EPA proposed regulations to reinterpret the scope of the Bevill Amendment (50 Fed. Reg. 40292). These regulations could result in regulation of the El Paso Refinery under the RCRA hazardous waste program.

Phelps Dodge has spent substantial time, effort and resources preparing its Part B RCRA permit application. In view of the likelihood of hazardous waste regulation of the El Paso Refinery in the future, we enclose herewith for the Texas Water Commission's records the Continuing Releases and Compliance Certification statements as required by the HSWA. This information is submitted for future reference by the Texas Water Commission if and when the El Paso Refinery becomes subject to hazardous waste regulation.

Please note that the revised closure cost estimate in the Part B application is greater than the previous closure cost estimate of \$223,733. Because it is now agreed that the El Paso Refinery is not subject to hazardous waste regulation, Phelps Dodge will not obtain

Mr. Minor Hibbs Chief, Hazardous Waste Permits Section Texas Water Commission 1700 North Congress Avenue Austin, TX 78711 November 7, 1985

Page 2

additional financial assurance at this time. Instead, the existing letter of credit will be left in place until such time as the hazardous waste regulations apply to the El Paso Refinery.

Sincerely,

Sevice L. Bailey
George L. Bailey
Works Manager

BES:bjm

Enclosures

cc: U. S. Environmental Protection Agency Hazardous Waste Management Division InterFirst II Building - 28th Floor

1201 Elm Street

Dallas, Texas 75270

Attn: Mr. William Rhea (6H-HO)

#### CERTIFICATION STATEMENT

I, George L. Bailey, am the owner/operator of Phelps Dodge Refining Corporation, El Paso Plant, (EPA ID #TX D007397144) located at El Paso, Texas. I certify that the BV Pond and Large Pond at this facility are in compliance with all applicable State ground-water monitoring and financial responsibility requirements\*which are a part of the State of Texas' authorized hazardous waste program under Section 3006 of RCRA (31 TAC Sections 335.191 - 335.195 and 335.231 - 335.233).

I, George L. Bailey, as owner/operator of Phelps Dodge Refining Corporation, El Paso Plant, located at El Paso, Texas, knowingly and willfully make this true and accurate certification to the United States Environmental Protection Agency pursuant to Section 3005(e) of the Hazardous and Solid Waste Disposal Act, as amended.

\*Note: Phelps Dodge is in compliance with closure/post closure care financial assurance requirements. However, Phelps Dodge has been unable to secure liability insurance and cannot provide this assurance.

Signature: <u>George L. Bailer</u> Date: <u>Nov. 7, 1985</u>

# TEXAS WATER COMMISSION

TX DOOT 397144

Paul Hopkins, Chairman Ralph Roming, Commissioner John O. Houchins, Commissioner



Larry R. Soward, Executive Director

Mary Ann Hefner, Chief Clerk

James K. Rourke, Jr., General Counsel

December 11,1985

Mr. Bobby E. Stephens Phelps Dodge Refining Corporation P.O. Box 20001 El Paso, TX 79998

RE: Solid Waste Registration No. 30104

Dear Mr. Stephens:

This letter is to summarize the conference held on November 1, 1985 between the Texas Water Commission (TWC) and Phelps Dodge and to outline the company's requirements for addressing solid waste violations at the El Paso facility. Current interpretations of the mining waste exclusion [40 CFR 261.4(b) (7)] by the U.S. Environmental Protection Agency (EPA) exempt Phelps Dodge from the hazardous waste regulations, therefore the company is not required to submit a Part B permit application at this time. The TWC will provide Phelps Dodge an opportunity to withdraw the Part B permit application by submittal of an affidavit of exclusion.

As you are aware, the U.S. EPA published proposed rules in the Federal Register on October 2, 1985 (amending 40 CFR Part 261) which would, should they become final, eliminate certain wastes generated by Phelps Dodge from the mining waste exclusion, thereby requiring Phelps Dodge to manage these materials as hazardous wastes. In light of these proposed rules and Phelps Dodge present regulatory status, please indicate to the TWC within 45 days of the date of this letter your plans regarding closure or management of the existing surface impoundments, including groundwater monitoring, liners which may be in place or are planned, and any plans requiring an amendment to Wastewater Permit No. 00461.

In addition, inspections and sample collections by TWC representatives indicate stormwater runoff from Phelps Dodge plant site contains concentrations of heavy metals in excess of allowable limits. Therefore, the TWC requires that the following items be addressed in order to protect the water quality of the State:

- Provide to the TWC within 45 days of the date of this letter a plan to protect incinerator ash, slag, refractory brick, baghouse dust and other metal-containing materials from contact with runoff water.
- Within 90 days of the date of this letter submit a plan to clean up areas contaminated by solid waste. Within 90 days also submit a plan to study stormwater runoff quality after cleanup has been accomplished and the stormwater protection plan (Item No. 1 above) has been implemented. The plan should describe how and where the items listed in Attachment I will be executed.

Mr. Bobby E. Stephens December 11, 1985 Page two

- 3. Within 30 days of the date of this letter update the Notice of Registration to include all wastes and waste management facilities to include the following solid wastes: baghouse dust, slag, refractory brick and incinerator ash.
- 4. Within 30 days of the date of this letter submit proof of deed recordation of all sites at which industrial solid wastes have been disposed, including the wastewater surface impoundments.

Should you have any questions regarding this letter please contact Ms. Christy Smith of the Solid Waste Enforcement Section at 512/463-7794.

Sincerely,

Larry R. Soward Executive Director

CS/jl

#### Attachment I

- a. Install a rain gauge on the plant site and record precipitation amounts.
- b. Collect four grab samples of runoff water during the first thirty minutes of each rainfall event at four respective locations on the site for analysis for pH and total and dissolved arsenic, copper, manganese, nickel, lead, selenium, and zinc. Discuss sample collection, analysis, quality assurance/quality control and how personnel will be alerted as to when samples should be collected.
- c. Make arrangements with the TWC District 10 Office to split samples during rainfall events.
- d. Submit quarterly reports for a period of 12 months to include precipitation amounts and sample results.
- e. Phelps Dodge and the Texas Water Commission shall review the data for adequacy at the end of this period and discuss mitigation methods which may be necessary.

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## TEXAS DEPARTMENT OF WATER RESOURCES

1700 N. Congress Avenue Austin, Texas

TEXAS WATER DEVELOPMENT BOARD

Louis A. Beecherl, Jr., Chairman George W. McCleskey, Vice Chairman Glen E. Roney Lonnie A. "Bo" Pilgrim Louie Welch Stuart S. Coleman



Charles E. Nemir Executive Director

July 12, 1985

TEXAS WATER COMMISSION Paul Hopkins, Chairman Lee B. M. Biggart Ralph Roming

Kimble\_ Ferguson

Smith

Dixon

Mr. Donald T. Fujihira Assistant to the Chairman Phelos Dodge Corporation 300 Park Avenue New York, New York 10022

Dear Mr. Fujihira:

CERTIFIED MAIL

Re: RCRA Financial Assurance Phelos Dodge Refinery; Solid Waste Registration Number 30104

The letter of credit submitted to this agency for financial assurance has been reviewed and determined to be adequate. A standby trust agreement must also be submitted as an accompaniment to the letter of credit however. Until such time as this document has been received and determined to be adequate, this facility will remain listed in violation of RCRA financial assurance requirements. Mr. Russell Kimble is available at 512/463-7727 for assistance regarding this matter.

Sincerely.

Bryan W. Dixon, P.E., Chief Solid Waste and Spill Response Section Unforcement and Field Operations Division

1757

cc: Jay Snow, Permits Division, Solid Waste Section Texas Department of Water Resources District 10 Office



30104

#### Frank B. Hall & Co. International Aviation Division

TEXAS DEPARTMENT OF WATER RESOURCES P.O. Box 13087 Capitol Station Austin, Texas 78711

To: The Executive Director Attn: Mr. Russell Kimble

### CERTIFICATE OF LIABILITY INSURANCE

EPA Identification Number: TXD 007397144

30104

TDWR Registration and Permit Numbers:

None currently

1. National Union Fire Insurance Company, (the "Insurer"), of 70 Pine Street, New York, N.Y. 10270 hereby certifies that it has issued liability insurance covering bodily injury and property damage to Phelps Dodge Refining Corporation, (the "insured"), of 300 Park Avenue, New York, N.Y. 10022 in connection with the insured's obligation to demonstrate financial responsibility under 40 CFR 264.147 or 265.147. The coverage applies at:

El Paso Refinery

North Loop Drive, El Paso, Texas

EPA Identification Number:

TXD 007397144

TDWR Registration Number:

30104

TDWR Permit Number:

None currently

for SUDDEN ACCIDENTAL OCCURRENCES. The limits of liability are:

\$1,000,000 each occurrence \$1,000,000 annual aggregate

The coverage is provided under policy GLAL 5334297, issued on January 1, 1984. The effective date of said policy is January 1, 1984.

- 2. The Insurer further certifies the following with respect to the insurance described in Paragraph 1:
- (a) Bankruptcy or insolvency of the insured shall not relieve the Insurer of its obligations under the policy.
- (b) The Insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the Insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in 40 CFR 264.147(f) or 265.147(f).

# Frank B. Hall & Co. International Aviation Division

- (c) Whenever requested by the Executive Director of the Texas Department of Water Resources (TDWR), the Insurer agrees to furnish to the Executive Director a signed duplicate original of the policy and all endorsements.
- (d) Cancellation of the insurance, whether by the Insurer or the insured, will be effective only upon written notice and only after the expiration of sixty (60) days after a copy of such written notice is received by the Executive Director of the TDWR.
- (e) Any other termination of the insurance will be effective only upon written notice and only after the expiration of thirty (30) days after a copy of such written notice is received by the Executive Director of the TDWR.

I hereby certify that the wording of this instrument is identical to the wording specified in 40 CFR 264.151(j) as it pertains to the Hazardous Waste Management Program of the State of Texas administered by the Texas Department of Water Resources as such regulation was constituted on the date first above written, and that the Insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.

Frank C. Collin

Authorized Representative of National Union Fire Insurance Company

Frank B. Hall & Co., Inc. International Aviation Division 261 Madison Avenue New York, N.Y. 10016

Certificate issued June 20, 1984

4.00%

# THIS CERTIFICATE IS FOR 100% OF THE LIMIT SHOWN HEREON HAZARDOUS WASTE FACILITY CERTIFICATE OF LIABILITY INSURANCE

1. The "Insurers" hereon being:-

	(31.18%	Walbrook Ins. Co. Ltd.	82L03B38070
	(10.75%	El Paso Ins. Co. Ltd.	
	(18.82%	Dart Ins. Co. Ltd.	
		Louisville Ins. Co. Ltd.	¥
	(8.61%	Bermuda Fire & Marine Ins. Co. Ltd.	MAG
80.00%	(10 75%	"Winterthur" Swiss Ins. Co.	
	( 9.68%	Mutual Reinsurance Co. Ltd.	
	( 2.15%	Compagnie Europeenne d'Assurances	18.10.84.
18	(	Industrielles S.A.	18304
	Per H.S.	Weavers (Underwriting) Agencies Ltd.	1

6.00% CNA Re.

British National Life Insurance Society Ltd.

2.00% Folksam International Ins. Co. (U.K.) Ltd.

St. Katherine Insurance Company PLC. 4.00%

4.00% Lexington Insurance Company

01958108841

B3CTB6517017220

hereby certify that they have issued liability insurance covering bodily injury and property damage to:

- Phelps Dodge Copper Products Company (Division of Phelps Dodge Industries Inc.) (the "insured"), of 300 Park Avenue, New York, 1) N.Y. 10022
- 2) Phelps Dodge Refining Corporation (the "insured") of 300 Park Avenue, New York, N.Y. 10022

in connection with the Insured's obligation to demonstrate financial responsibility under 40 CFR 264.147 or 265.147. The coverage applies at:

1) El Paso Rod Mill, TXD 048924989 697 Hawkins, El Paso, Texas

C00932/83

El Paso Refinery North Loop Drive, El Paso, Texas

for sudden accidental occurrences. The limits of liability are the difference between \$1,000,000 each occurrence, \$2,000,000 annual aggregate and \$1,000,000 each occurrence, \$1,000,000 annual aggregate, exclusive of legal defense costs.

The coverage is provided under policy number KY004682 issued on (as yet unissued). The effective date of said policy is 1st January, 1984.

- The "Insurers" further certify the following with respect to 2. the insurance described in paragraph 1"-
  - Bankruptcy or insolvency of the insured shall not relieve the Insurers of their obligations under the policy.
  - The Insurers are liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the Insurers. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in 40 CFR 264.147 (f) or 265.147 (f).
  - Whenever requested by the Executive Director of the Texas Department of Water Resources (TDWR), the Insurers agree to furnish to the Executive Director, a signed duplicate original of the policy and all endorsements.
  - Cancellation of the insurance, whether by the Insurers or the Insured, will be effective only upon written notice and only after the expiration of sixty (60) days after a copy of such written notice is received by the Executive Director of the TDWR.
  - (e) Any other termination of the insurance will be effective only upon written notice and only after the expiration of thirty (30) days after a copy of such written notice is received by the Executive Director of the TDWR.

We hereby certify that the wording of this instrument is identical to the wording specified in 40 CFR 264.151 (J) as such regulation was constituted on the date first above written, and that the Insurers are licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.

300

30104

# Frank B. Hall & Co. International Aviation Division

TEXAS DEPARTMENT OF WATER RESOURCES P.O. Box 13087 Capitol Station Austin, Texas 78711

To: The Executive Director Attn: Mr. Russell Kimble

## CERTIFICATE OF LIABILITY INSURANCE

EPA Identification Number: TXD 007397144

30104

TDWR Registration and

None currently

Permit Numbers:

1. National Union Fire Insurance Company, (the "Insurer"), of 70 Pine Street, New York, N.Y. 10270 hereby certifies that it has issued liability insurance covering bodily injury and property damage to Phelps Dodge Refining Corporation, (the "insured"), of 300 Park Avenue, New York, N.Y. 10022 in connection with the insured's obligation to demonstrate financial responsibility under 40 CFR 264.147 or 265.147. The coverage applies at:

El Paso Refinery
North Loop Drive, El Paso, Texas
EPA Identification Number: TXD 007397144
TDWR Registration Number: 30104
TDWR Permit Number: None currently

for SUDDEN ACCIDENTAL OCCURRENCES. The limits of liability are:

\$1,000,000 each occurrence \$1,000,000 annual aggregate

The coverage is provided under policy GLAL 5334297, issued on January 1, 1984. The effective date of said policy is January 1, 1984.

- 2. The Insurer further certifies the following with respect to the insurance described in Paragraph 1:
- (a) Bankruptcy or insolvency of the insured shall not relieve the Insurer of its obligations under the policy.
- (b) The Insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the Insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in 40 CFR 264.147(f) or 265.147(f).

### Frank B. Hall & Co. International Aviation Division

- (c) Whenever requested by the Executive Director of the Texas Department of Water Resources (TDWR), the Insurer agrees to furnish to the Executive Director a signed duplicate original of the policy and all endorsements.
- (d) Cancellation of the insurance, whether by the Insurer or the insured, will be effective only upon written notice and only after the expiration of sixty (60) days after a copy of such written notice is received by the Executive Director of the TDWR.
- (e) Any other termination of the insurance will be effective only upon written notice and only after the expiration of thirty (30) days after a copy of such written notice is received by the Executive Director of the TDWR.

I hereby certify that the wording of this instrument is identical to the wording specified in 40 CFR 264.151(j) as it pertains to the Hazardous Waste Management Program of the State of Texas administered by the Texas Department of Water Resources as such regulation was constituted on the date first above written, and that the Insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.

Frank C. Collin

Authorized Representative of National Union Fire Insurance Company

Frank B. Hall & Co., Inc. International Aviation Division 261 Madison Avenue New York, N.Y. 10016

Certificate issued June 20, 1984

Copper Products Company El Paso, Texas 79998 • (915) 778-9371

CeH-CE FEB 11 1986

February 6, 1986



I loto entered into PC 2/13/86 the

U.S. Environmental Protection Agency Hazardous Waste Management Division Interfirst II Building - 28th Floor 1201 Elm Street Dallas, Texas 75270

Attention: Mr. William Rhea (6H-HO)

Re: Request for Information Pursuant to \$\infty\$ 3007 of the Resource Conservation and Recovery Act, 42 U.S.C. \$\infty\$ 6927 I.D. TXD048924989

Dear Sirs:

Our hazardous waste facility impoundments were certified as being closed on September 24, 1985 in accordance with our closure plan, which was submitted to and approved by the Texas Water Commission. The closure plan was dated January 17, 1985.

Please advise if we should take additional action on this subject.

Sincerely, Slue a Spetion

Steve A. Sjostrom

SAS:dfb

Enclosed: Closure Plan

Certification of Closure

CC: With Enclosures:

Mr. Minor Hibbs, Chief Hazardous & Solid Waste Permit Section - Texas

Water Commission 1700 North Congress Ave Austin, Texas 78701

W/O Enclosures:

R. L. Scheurer

B. E. Stephens

S. R. Vasquez

September 24, 1985

Mr. Charles E. Nemir, Executive Director Texas Department of Water Resources Post Office Box 13087 Capitol Station Austin, Texas 78711

Dear Mr. Nemir:

This letter is to certify that the Closure Plan for two hazardous impoundments located at the Phelps Dodge Copper Products, El Paso Rod Mill, has been implemented and completed in accordance with the Closure Plan as approved by the Texas Department of Water Resources on January 17, 1985.

Yours truly,

Raymond L. Scheurer

Plant Manager

RLS:dfb





Ocotber 11, 1985

Executive Director Texas Department of Water Resources P.O. Box 13087, Capitol Station Austin, TX 78711

#### Gentlemen:

We are remitting our Letter of Amendment No. 2098 to our Letter of Credit No. 52011 in your favor for account of Phelps Dodge Copper Products, Co.

If there are any questions concerning the enclosed, or if we may be of any further assistance, please contact us.

Yours truly,

Margarita M. Palacios Assistant Vice President International Banking and Industrial Development Dept.

Enc.

/ mbp

OCT 21 1885 WATER



# LETTER OF AMENDMENT

AM-2098

OCTOBER 11, 1985

**IRREVOCABLE CREDIT NO. 52011** 

Executive Director
Texas Department of Water Resources
P.O. Box 13087, Capitol Station
Austin, TX 78711

DATED October 12, 1984

FOR ACCOUNT OF Phelps Dodge Copper Product Co. 897 Hawkins Blvd. El Paso, TX 79998

#### **GENTLEMEN:**

TO:

IN ACCORDANCE WITH INSTRUCTIONS RECEIVED FROM OUR PRINCIPALS, THE IRREVOCABLE CREDIT OPENED IN YOUR FAVOR IS BEING AMENDED IN THE FOLLOWING RESPECTS:

THE EXPIRY DATE OF THIS CREDIT HAS BEEN EXTENDED UNTIL: "OCTOBER 11, 1986"

WHICH AMENDMENT IS SUBJECT TO YOUR APPROVAL. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME

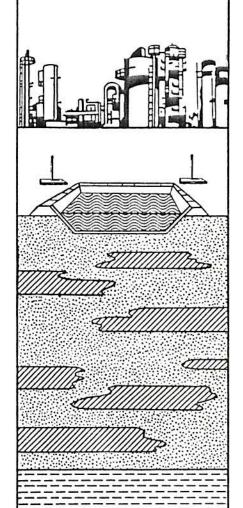
**MBank**ElPaso

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# CLOSURE OF SURFACE IMPOUNDMENTS, EL PASO ROD MILL

Prepared for

# PHELPS DODGE COPPER PRODUCTS COMPANY



Prepared by

Underground Resource Management, Inc.

Ser.

Austin, Texas



# Underground Resource Management, Inc.

August 2, 1985

J84-940

Mr. Charles E. Nemir
Executive Director
Texas Department of Water Resources
P. O. Box 13087
Capitol Station
Austin, Texas 78711

Dear Sir:

This letter is to certify that the Closure Plan for two hazardous impoundments located at the Phelps Dodge Copper Products - El Paso Rod Mill has been implemented and completed in accordance with the Closure Plan as approved by the Texas Department of Water Resources on January 17, 1985.

The attached report details the implementation procedure and the site investigation performed as part of closure implementation.

Prepared by

John K. Mikels

JKM/MWC:sgl

Certified by

Michael W. Cooper



CLOSURE OF SURFACE IMPOUNDMENTS EL PASO ROD MILL

Prepared for Phelps Dodge Copper Products Co.

Prepared by
Underground Resource Management, Inc.
Austin, Texas

August, 1985



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## INTRODUCTION

The El Paso Rod Mill (Figure 1), operated by the Phelps Dodge Copper Products Company (PDCP), is classified by the Texas Department of Water Resources (TDWR) as a generator, storer, treater, and disposer of hazardous industrial solid waste (Reg. No. 30825). Included as part of PDCP waste management facilities are two surface impoundments (Figure 2).

The following hazardous waste streams were discharged to the ponds while they were in hazardous service:

		TDWR	EPA
Wastestream	Class	Code	Code
- E			
Spent acidic metal treatment solution	I	100100	D002
Water with soluble oil	I	109810	
Alkaline wax solution	I	110610	
Hydraulic oil	ΙΙ	210480	

The PDCP mill began operations in 1969. It produces copper wire and rod from copper which is refined mainly by the adjacent Phelps Dodge Copper Refinery. From January, 1969 until mid-1981, wastes from the mill were discharged into an on-site, unlined, 100' x 200' x 4' evaporation pond (Figure 2). In 1981, at the request of the TDWR, the unlined evaporation pond was physically closed, and the current ponds were constructed on the same spot. Prior to construction of the new ponds, the site was cleaned up, but a formal closure plan was never developed. The new ponds have clay underliners, leachate collection systems, and synthetic overliners (36 mil CPE). Each pond is about 136' x 100' x 9', and has a total capacity of about 919,000 gallons, or 694,000 gallons



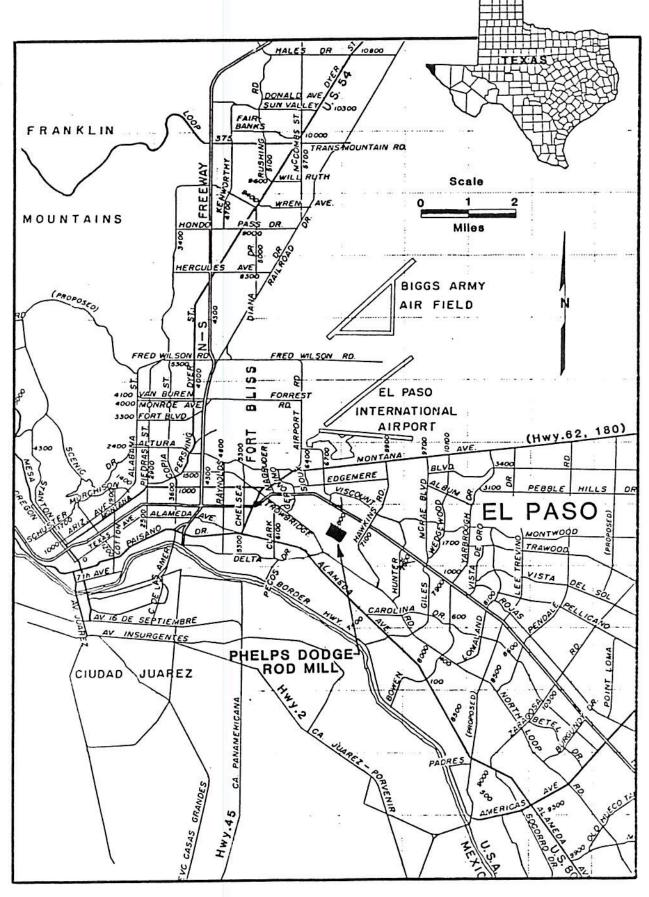
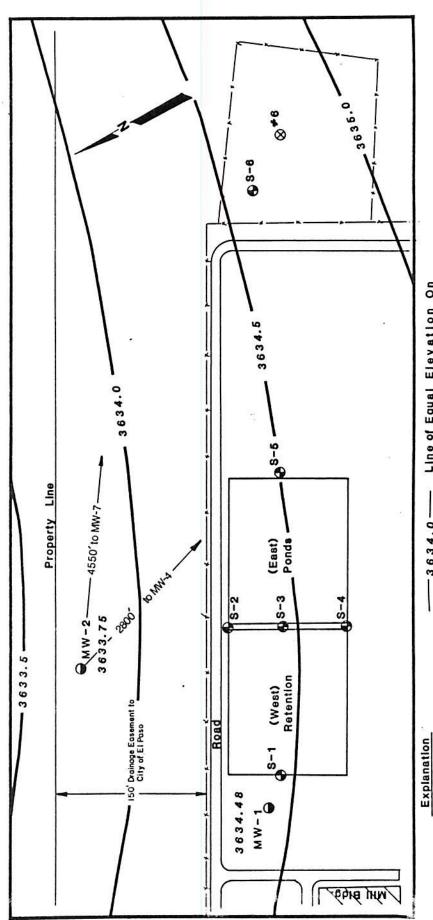


Figure 1. Project Location Map





Line of Equal Elevation On The Alluvial Aquifer Water Table (Measured March, 1985) 3634.0-

Soil Sample Location

⊗ Water Well

Monitor Well

Note: Water Level Data From Outside Of Rod MIII Also Used in Determing Contours.

120 SCALE FEET 90 0

Phelps Dodge Rod Mill Data Location Map And Elevations On The Alluvial Aquifer Water Table. Figure 2.



with 2 feet of freeboard.

In mid-1981, wastewater was directed into the new lined pond for storage until construction in 1982 of a wastewater treatment plant, designed to render effluent to the pond nonhazardous. This plant became fully operational in early 1983, and was used to reclaim the fluids stored in the lined ponds since their construction. In the treatment process, copper is stripped from the fluids prior to discharge to the pond and caustic is added to maintain a pH of 6 to 8. Oil discharged to the pond is periodically skimmed off and recycled or sold for salvage. Current total discharge to the ponds is about 400,000 gallons per month, of which about 25 gallons are hydraulic and lubrication oils. Occasionally, the pond pH was allowed to drop below 2 to facilitate breaking an oil-water emulsion discharged to the ponds. Caustic was then added to bring the pH up to the 4 to 7 range. The practice of allowing hazardous (<2) pH water in the ponds was ceased in May, 1985.

PDCP is closing the ponds as hazardous waste facilities, but plan to continue to use them for non-hazardous fluid storage and recycling. Closure as a hazardous waste facility is being done according to the provisions of TAC 335.286. To affect closure pursuant to TAC 335.286, an investigation has been conducted to demonstrate that the pond contents are no longer a hazardous waste, thereby meeting the removal requirements of TAC 335.286, and that migration of hazardous waste constituents to the underlying soils and groundwater system has not occurred.

The east pond is now being used as a storage reservoir for treated wastewater. From the east pond, this water is piped to the adjacent Phelps Dodge Refinery and used to irrigate oats and alfalfa. The west pond is now being used as a fresh process water reservoir.



This closure is also in accordance with a Compliance Agreement between PDCP and the TDWR, effective September 12, 1984. This agreement requires the submission of a Closure Plan and a Groundwater Quality Assessment Plan (GWQAP) for the impoundments. The GWQAP was incorporated into the implementation of the Closure Plan as part of the demonstration that the impoundment contents are no longer hazardous and that hazardous constituents have not migrated into underlying soils and groundwater.



#### CLOSURE PLAN IMPLEMENTATION

The Closure Plan and TDWR Letter of Approval are contained in Appendix A. The Closure Plan was implemented in the Spring of 1985. The steps necessary to carry out a GWQAP were an integral part of the Closure Plan and its implementation. The major tasks of this implementation were:

- · Sampling and analyses of impoundment contents.
- · Collection and analyses of shallow soil samples.
- · Installation and sampling of groundwater monitoring wells.
- · Public Notification of Closure.
- · Certification of Closure.
- Preparation and submission to the TDWR of a report detailing the closure implementation.

#### Impoundment Analyses

The surface impoundments were initially sampled on March 12, 1985. The oil, aqueous, and sludge phases in each impoundment and the underdrain of each impoundment were sampled according to the schedule detailed in the Closure Plan. The west impoundment underdrain was dry so no sample could be obtained. The east impoundment has been recently cleaned-out so that only traces of sludge remained. Hence, only a single whole impoundment sludge composite, rather than two composites of diagonal quadrants, was taken.

At the time of sampling, an estimate of the volume of each phase in each impoundment was made. The east impoundment was approximately full, while the west impoundment was largely empty, in preparation for cleaning. The volumes of the impoundment contents on March 12, 1985 were estimated to be:



	East	West
0i1	100 gal.	300 gal.
Aqueous	500,000 gal.	45,000 gal.
Sludge	<10 yds <sup>3</sup>	100 yds <sup>3</sup>

The results of analyses of the aqueous and sludge phases and of the underdrain contents are in Table 1. The oil phase samples were analyzed for the eight organohalide solvents listed in the Closure Plan. None of these solvents were found at concentrations above the practical method detection limit. Oil samples from both ponds had ignitabilities greater than 140°F.

With two exceptions, all of the impoundment and underdrain samples collected on March 12, 1985 exhibited no hazardous characteristics. The pH of the east impoundment aqueous phase was 1.8. PDCP has occasionally dropped the pH in this impoundment to below 2 to assist in breaking the oil-water emulsion discharged to the impoundment. After the emulsion was broken, the pH was raised to approximately 6 by the addition of caustic soda. In April, 1985, PDCP modified its wastewater treatment process to eliminate the need for dropping the pH in the impoundments. Independent measurements of east impoundment pH on May 10, 1985 and June 18, 1985 were 2.3-2.4 and 6.3, respectively. PDCP now monitors the pH of the east impoundment on a daily basis. The west impoundment has been converted to a fresh process water reservoir and will not be subject to potentially hazardous pH conditions.

Fluid bailed from the east impoundment underdrain access pipe on March 12, 1985 had a cadmium concentration of 3.0 mg/L. This, plus a copper concentration of 990 mg/L and a pH of 3.2, indicated that east impoundment constituents had penetrated through the synthetic liner and



TABLE 1

Analyses of Impoundment Contents

All units in mg/L except pH and Specific Conductivity.	East Pond (Fluid) East Pond (Soil)	West Pond NW/SE West Pond NE/SW	East Pond Composite	East Pond NW/SE East Pond NW/SE East Pond NE/SW East Pond NE/SW East Pond (grab)	West Pond NH/SE West Pond NE/SW West Pond (grab)	Location
pt pH and S	03/12/85 06/17/85	03/12/85 03/12/85	03/12/85	03/12/85 05/10/85 03/12/85 05/10/85 06/17/85	03/12/85 03/12/85 06/17/85	Date Sampled
pecific	320	::	:	11111	111	C
Conduc	100	::	:	11111	111	급
tivity.	2,500	11	:	11111	1:1	Na.
	140	11	ı	11111	111	×
	340	11	:	11111	111	2
	9,000 	11	Sluds	11111	Aquec	\$0 <sub>4</sub>
	Underchain 10 <1	11	Sludge Phase	11111	Aqueous Phase	NO
40	1 6.3	11	1	11111	111	ייין
	1004	.016	.019	.016	.027	As
	ı ç	3.3 <.05	<b>.</b> 05	.75	.75 <.05	Ba
	3.0 4.01	.01 .22	.01	11:51:04	128	18
	.70		<b>.</b> .05	.72	.46	ls
	990	11	1	11 23 1 34	163 285	5
	15	<.05	<.005	11.5	1.7	P
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3.2	11 1	6.3	1.8 2.4 2.3	9.2 9.5 10.7	되
13,000	11 1	1	1111	ĒĦ	Spec.
14,000	:: :	1	1111	111	SOI
3.2	11 1		1111	1 9 9 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2	Corrosivity
1 20	11 1		1 6 1 6	1 601	Reactivity Cn
15	11 1	1 1	1212	1:15	Reactivity (H <sub>2</sub> S)



entered the underdrain. A reanalysis of the sample confirmed the cadmium concentration of the fluid sample.

On June 18, 1985, an attempt was made to resample the east underdrain for confirming analyses. No free fluid could be obtained by either bailing or vacuum pumping. However, samples of the sand bed (very wet) and clay underliner were obtained by push tube. Analyses of this sample indicated an EP Tox Cadmium concentration of <0.01 mg/L and 272 mg/Kg of copper.

## Soil Borings

Shallow soil borings were made at five sites adjacent to the impoundments and one background location (Figure 2). At each boring, samples were taken at depths of 18 and 36 inches. The samples were analyzed for EP Toxicity Metals. The results of the analyses are in Table 2. In all of the samples the concentrations of all of the metals, except arsenic and barium, were below method detection limits. Arsenic and barium concentrations were all two or more orders of magnitude below the EP Toxicity hazardous limits. Strata in all of the borings were loose, light to medium brown, fine to medium sand with minor silt and occasional coarse sand and fine gravel.

## Groundwater Monitoring

Two groundwater monitoring wells were installed at PDCP in March, 1985 (Figure 2). MW-1 is immediately adjacent to the impoundments, and MW-2 is about 130 feet hydraulically down-gradient from the impoundments. Figures 3 and 4 are the boring logs - completion diagrams of each well. Both wells are screened in the Rio Grande Alluvium, which is the first aquifer beneath PDCP.

Selected soil samples from the monitor well borings were analyzed



TABLE 2

Phelps Dodge Rod Mill Impoundments

Soil Borings - EP Toxicity Metals Analyses

(Concentrations in mg/L)

Boring	Sample	<u>As</u>	<u>Ba</u>	<u>Cd</u>	Cr	<u>Pb</u>	<u>Hg</u>	<u>Se</u>	<u>Ag</u>
SB-1	18"	.004	.96	<.01	<.05	<.05	<.001	<.001	<.01
SB-1	36"	.007	.74	<.01	<.05	<.05	<.001	<.001	<.01
SB-2	18"	.006	.75	<.01	<.05	<.05	<.001	<.001	<.01
SB-2	36"	.018	.43	<.01	<.05	<.05	<.001	<.001	<.01
SB-3	18"	.012	.64	<.01	<.05	<.05	<.001	<.001	<.01
SB-3	36"	.017	.32	<.01	<.05	<.05	<.001	<.001	<.01
SB-4	18"	.014	.43	<.01	<.05	<.05	<.001	<.001	<.01
SB-4	36"	.010	.43	<.01	<.05	<.05	<.001	<.001	<.01
SB-5	18"	.007	<.05	<.01	<.05	<.05	<.001	<.001	<.01
SB-5	36"	.013	.32	<.01	<.05	<.05	<.001	<.001	<.01
SB-6	18"	.012	.32	<.01	<.05	<.05	<.001	<.001	<.01
SB-6	36"	.014	.32	<.01	<.05	<.05	<.001	<.001	<.01

Location of borings shown on Figure 2.



## Monitor Well Installation

Client: Phelps Dodge Copper Products	_ Job No.: <u>84-940</u> Date Dr	illed: 3/12 - 16/85 Well No.:Rodmill MW-1
Site: El Paso Rod Mill	Elevation: GL 3,779.0	Top of Casing:3,782.42
Total Depth: 200 Feet Casing Size	& Type: 4-inch and 5-inch PVC	Screen Size: 4"/5" Mill Slot PV
Comments: Drilled with mud-rotary rig	. Original 5-inch casing parted at	120 feet; 4-inch PVC casing set as liner.

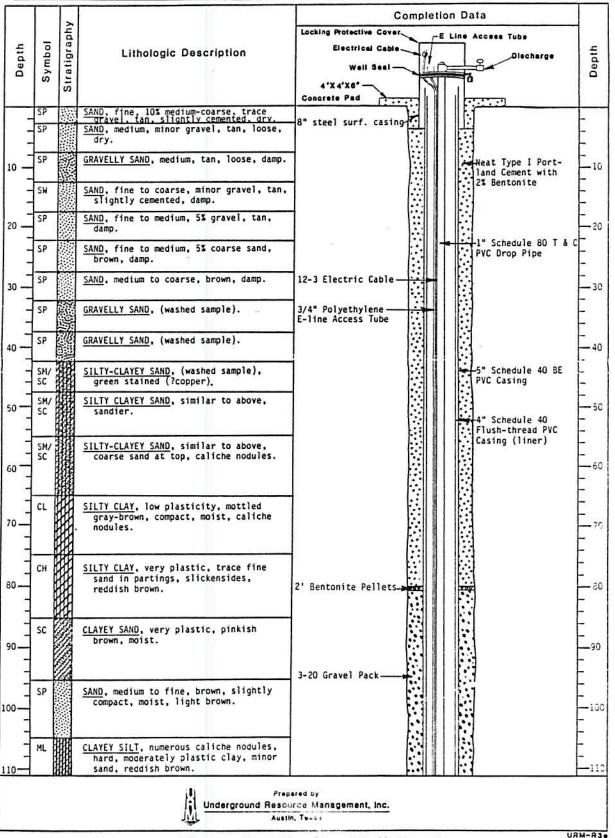


Figure 3. Monitor Well No. 1



## Recovery Well Installation

Client: Phelps Dodge Copper Products	Job No.: 84-940 Da	te Drilled: 3/12-16/85 Well No.: Rodmill MW-1
Site: El Paso Rod Mill	. Elevation: GL3.7	79.0 Top of Casing: 3.782.42
		PYC Screen Size: 4"-5" Mill Slot PV
Comments: Drilled with mud-rotary rig.	Original 5-inch casing par	ted at 120 feet, 4-inch PVC casing set as liner.

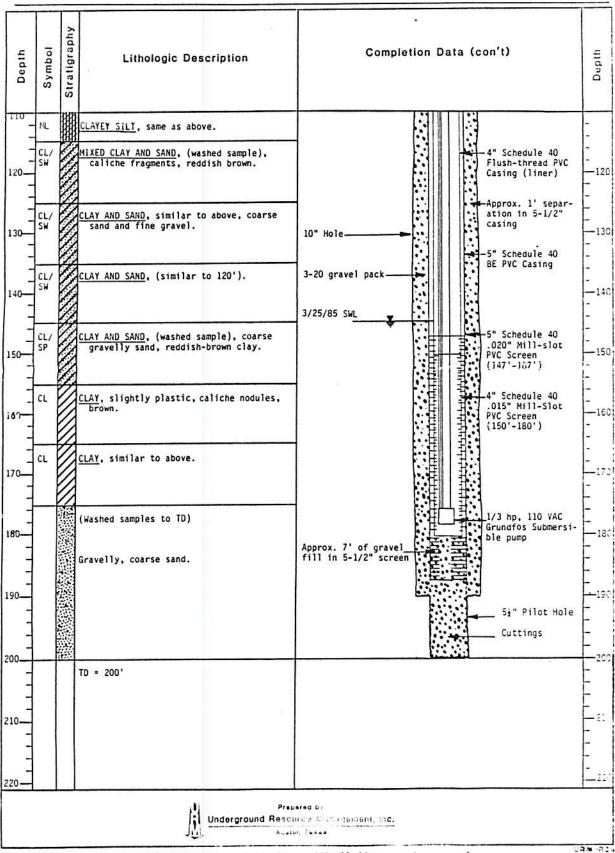


Figure 3. Monitor Well No. 1 (Cont.)



## Monitor Well Installation

Client: Phelps Dodge Copper Products	
Site: El Paso Rod Mill	Elevation: GL 3.782.7 feet Top of Casing: 3,786.70 feet
Total Depth: 186 feet Casing Siz	8 Type: 5-inch Schedule 40 BE PVC Screen Size:_01-inch slot
Comments: Drilled By Mud-Rotary Met	hods

Completion Data Stratigraphy Locking Protective Cover -E Line Access Tube Depth Symbol Electrical Cable Lithologic Description Discharge Well Seal Pump Control Box ሽ Concrete Pad 8-inch steel surface Fine to coarse sand with minor gravel, casing silty sand, and clay lenses. - 20 Neat cement grout 40 1-inch Schedule 80 -PVC T and C Droppipe MIXED VERY FINE SAND AND SILT, minor ML IIII clay, caliche nodules, moist, very mili compact, light brown. 3/4-inch E-line 60 access tube 5-inch Schedule 40 BE PVC casing Fine to coarse sand with minor gravel, silty sand, and clay lenses. BO 12-3 electric cable-Bentonite Pellets -100 100-FINE TO MEDIUM SAND, clean, light gray-brown, moist, slightly compact, 2 to 5% SP fine gravel. 10-3/4-inch borehole 120-120 -3-20 gravel pack Fine to coarse sand with minor gravel, silty sand, and clay lenses, percent of gravel increases with depth. 140 140-3/25/85 SWL -40 feet to 5-inch PVC Schedule 40 mill-slot with 160 160 0.020-inch slots 1 hp, 230 v, 1 PH -Grundfos electric -180 180submersible pump TOTAL DEPTH = 186 feet 200-200 Underground Figs 129 Hanagement, Inc. Austra, Teres URM-R3e



for pH and copper. Results of these analyses are in Table 3. The data from MW-1 indicate a zone at a depth of about 45 to 60 feet which is apparantly impacted by nonhazardous constituents. This impact is probably due to leakage from the unlined impoundment operated by PDCP on the same location from 1969 to 1981. The pH values and copper concentrations in this zone are not hazardous. Continued use of only lined impoundments, whether for service water or wastewater, will minimize the potential for leakage and subsequent recharge to the underlying Alluvial Aquifer. This in turn will minimize the potential for impoundment constituents now in the unsaturated zone and due to leakage when the impoundments were unlined, being carried on down to the water table. Currently, the water table is at 145 feet and is falling about 2-1/2-feet per year.

Water samples were pumped from each well and analyzed for standard groundwater parameters, copper, and any EP Toxicity metals significantly present in the impoundments. Results of these analyses are in Table 4. These wells were sampled twice, once immediately after installation, and again several weeks later. This was to ensure that the analyses were of formation water, unaffected by drilling, and that the quality was relatively constant in time.

For up-gradient background quality data, two unimpacted monitor wells (MW-4 and MW-7) from the adjacent Phelps Dodge Refinery were used. These two wells have been sampled quarterly since June, 1982. Recent analyses of water from these wells are in Table 4. A comparison of the quality of waters from the Rod Mill wells and the background wells (Figure 5) shows a dissimilarity. Water from the Rod Mill wells is slightly more saline and primarily a sodium-sulfate type with moderate hardness. The background wells contain water of a sodium-chloride type with very low hardness. This difference in quality is probably due to the natural areal variability of water quality in the Rio Grande Allu-



TABLE 3

Analyses of Monitor Well Boring Samples

		MW-1	M	W-2
Depth (ft.)	рН	Cu	рН	Cu
0	8.5	•03		
5	8.5	<.01		
10	8.5	<.01		
15	8.5	.02		
20	9.0	<.01		
45	5.8	30		
50	5.2	19	8.4	<.01
60	8.3	3.4		
80	8.5	<.01		
100	8.7	<.01	8.7	<.01

Cu by EP Toxicity methods; units are mg/L.



TABLE 4

Quality of Water from Wells, Phelps Dodge Copper Products - El Paso Rod Mill

105	2,000	1,800		1,400 1,500 1,500	840 750 770		720 990	508
Spec. Cond.	2,800	2,600		2,500 2,400 2,500	1,500		1,700	861
핌	7.1	7.2		7.5	8.4 7.6		8.2	8.1
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ır.l	.68	.23	Dodge	11.2	.84 .98	lson	.52	.28
NO3 or Well	33	4.0	Phelps [	.03	.25 .87 1.24	11s - Bc	7:5	
Cl SO <sub>4</sub> NO <sub>3</sub> Rod Mill Monitor Wells	740 740	260	Wells -	400 330 340	150 160 160	ction We	100	86 320
Rod Hi	340 360	360	Monitor Wells - Phelps Dodge Refinery	350 360 400	200 200 180	ige Production Wells - Bolson Aquifer	390	140
HCO3	450 345	430 330	Background	365 350 350	290 265 290	Phelps Dod	146	130
×I	18 36	34	Bac	19 13	1112	됩	15 17	12 18
N.	260 370	280 310		400 400 360	220 220 170		160	120
डी	75 84	62 60		26 25 27	18 18 15		40	10 51
ଥ	180 170	110		76 82 62	27 23		82 62	38
Date Sampled	03/25/85	03/25/85		12/04/84 01/29/85 03/12/85	12/04/84 01/29/85 03/12/85		06/16/82 03/12/85	03/30/77 03/12/85
Location	HK-1 HK-1	M-2		A 4 4	7 - 2 - 2 - 2 - 2 - 2 - 2 - 2 - 2 - 2 -		F1-6 (49-13-919)	(1-7 (49-13-936) (1-7 (49-13-936)

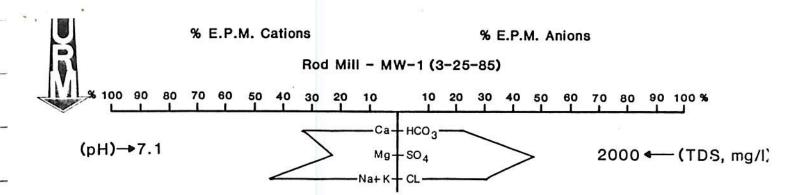
NOTE: Locations of Wells shown on Figure 2; all units in mg/l except ph (standard units) and Specific Conductance (micromhos).

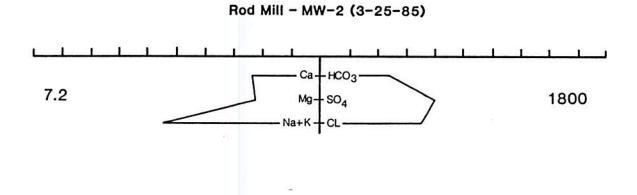
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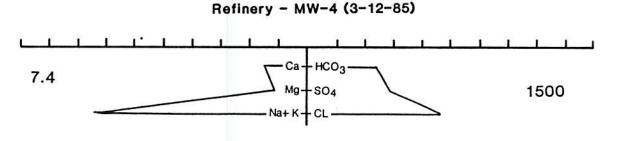
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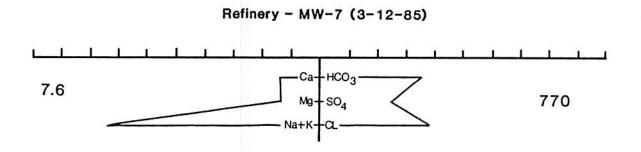


Figure 5. Comparison of Groundwater Quality by Stiff Diagrams



vium. The analyses of waters from the Rod Mill wells do not indicate impact by hazardous constituents of the pond contents.

Water samples were also collected from the Phelps Dodge No. 6 water well, which is located about 360 feet east of the impoundment and is screened in the deeper Hueco Bolson Aquifer. This sampling was to confirm that the Bolson Aquifer had not been impacted by the impoundments and to check an earlier analysis (TDWR, 3/8/84) that indicated 5.2 mg/L copper in the well. The current analysis of water from Well No. 6 revealed no detectable copper and no indication of impact. This analysis conformed well with an analysis completed nearly three years earlier. The one-time high copper value is probably due to improper sample collection or preservation or to laboratory error.

## Public Notification

Appendix B contains copies of the Public Notification of Closure that PDCP published in local newspapers.



## CLOSURE CERTIFICATION

Attached to the front of this report is a letter certifying that the Closure Plan has been implemented as approved by the TDWR. This certification is by a Professional Engineer, registered in Texas.



## CONCLUSIONS

Two surface impoundments at the Phelps Dodge Copper Products El Paso Rod Mill have been closed as hazardous waste management facilities per the site Closure Plan approved by the TDWR on January 17, 1985. The closure included an investigation that has demonstrated that all hazardous waste constituents have been removed from the impoundments and that no hazardous constituents are present in the substrate or underlying aquifer. Accordingly, no post-closure monitoring is necessary for the site.



 $\label{eq:APPENDIX A} \mbox{\sc Closure Plan and Acceptance Letter}$ 



# CLOSURE PLAN FOR TWO INDUSTRIAL SURFACE IMPOUNDMENTS AT THE PHELPS DODGE - EL PASO ROD MILL

Prepared for
Phelps Dodge Copper Products Company
El Paso, Texas

Prepared by
Underground Resource Management, Inc.
Austin, Texas

January, 1985



#### INTRODUCTION

The El Paso Rod Mill (Figure 1), operated by Phelps Dodge Copper Products (PDCP), is classified by the Texas Department of Water Resources (TDWR) as a hazardous waste generator/storage/treater/disposer of industrial solid waste. PDCP currently operates two adjacent surface impoundments within the rod mill that are used for storage and reclamation of certain industrial fluids. Prior to early 1983, these fluids were spent pickling liquor, copper-bearing and acidic, water with soluble oil, and an alkaline wax solution. The only characteristic that made these fluids hazardous was low pH. Beginning in early 1983, only non- hazardous materials were and are currently being discharged to the ponds.

The rod mill began operations in 1969. It produces copper wire and rod from copper refined mainly by the adjacent Phelps Dodge Copper Refinery. From January, 1969 until mid-1981, wastes from the mill were discharged into an on-site, unlined, 100' x 200' x 4' evaporation pond (Figure 2). In 1981, at the request of TDWR, the unlined evaporation pond was physically closed, and the current ponds were constructed on the same spot. Prior to construction of the new ponds, the site was cleaned up, but a formal closure plan was never developed. The new ponds have clay underliners, leachate collection systems, and synthetic overliners (36 mil CPE). Each pond is about 114' x 124' x 7', and has a capacity of about 700,000 gallons.

In mid-1981, the industrial fluids were directed into the new lined pond for storage until construction in 1982 of a wastewater treatment plant, designed to render effluent to the pond nonhazardous. This plant became fully operational in early 1983, and was used to reclaim the fluids stored in the lined ponds since their construction. Copper is



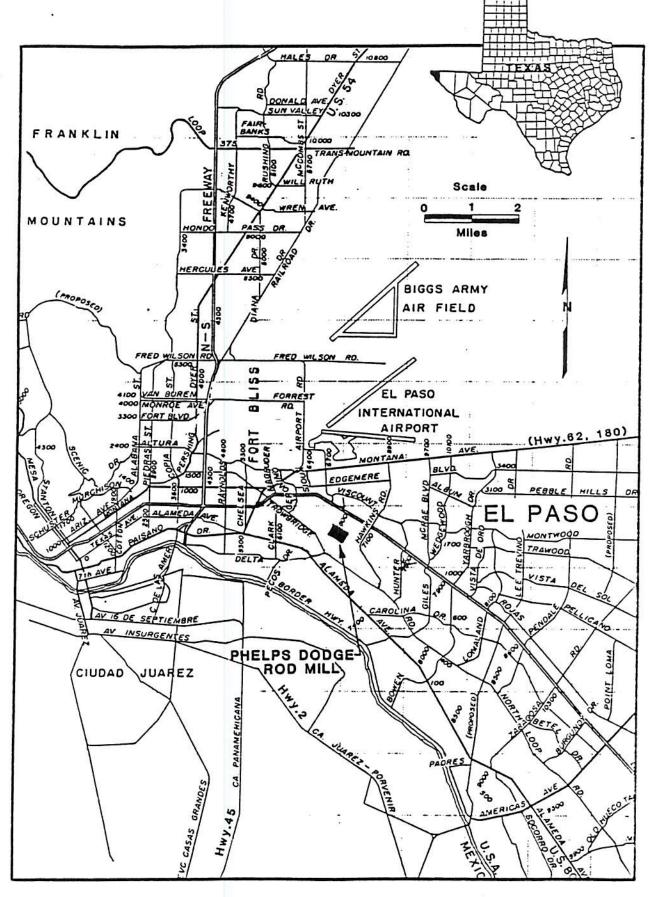
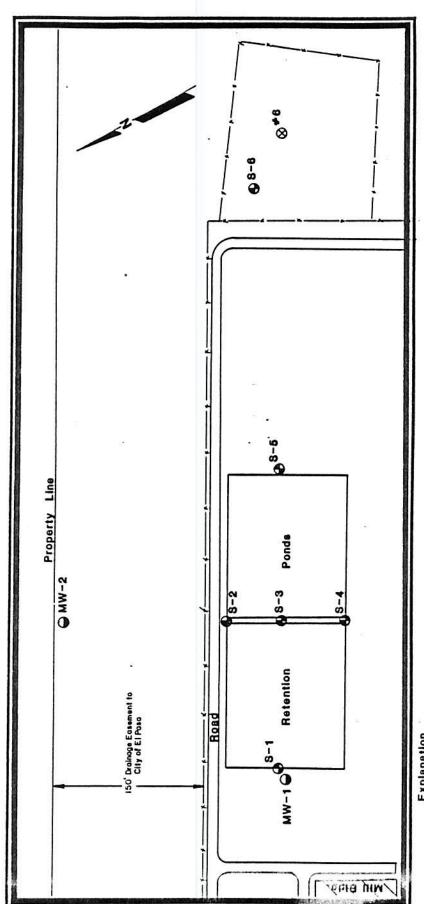


Figure 1. Project Location Map





SCALE 60 FEET

Explanation

- Monitor Well
   Soil Sample Location
  - ⊗ Water Well

Figure 2. Phelps Dodge Rod Mill Site Location Map



stripped from the fluids prior to discharge to the pond. In addition, caustic is added to maintain a pH of 6 to 8. Oil discharged to the pond is periodically skimmed off and recycled or sold for salvage. Current total discharge to the ponds is about 400,000 gallons per month, of which about 25 gallons is hydraulic and lubrication oils.

Phelps Dodge wishes to close the ponds as hazardous waste facilities, but continue using them for non-hazardous fluid storage and recycling. Closure as a hazardous waste facility will be done according to the provisions of TAC 335.286. To affect closure pursuant to TAC 335.286, an investigation will be conducted to demonstrate that the pond contents are no longer a hazardous waste, thereby meeting the removal requirements of TAC 335.286, and that migration of hazardous waste constituents to the underlying groundwater system has not occurred.



#### CLOSURE PLAN

At the time of closure, the PDCP ponds should contain no hazardous wastes. However, since the ponds are permitted under interim status, they will be closed as hazardous waste management ponds. The pond will continue to be operated as non-hazardous storage facilities. Closure shall be in accordance with TAC 335.286. The principal phases of the closure plan are:

- Determination of the volume and physical and chemical characteristics of the contents impounded at the time of closure.
- Investigation of groundwater beneath, and soil adjacent to the ponds to determine if hazardous constituents have migrated from the ponds.
- Treatment, recycling, and/or disposal of any hazardous waste determined to be in the ponds.
- 4. Submission of certified closure report to the TDWR.
- 5. Notification to county clerk and in deed records.

For Phase 1, the volume of liquid and any sludge in each pond will be estimated from appropriate depths and areal dimensions. Composite samples of the liquid and of any sludge phases will be analyzed for EP Toxicity Metals, pH/corrosivity, reactivity, and ignitability. The pond underdrain system and monitor wells will also be sampled and similarly analyzed. The sampling and analysis procedure for the ponds will be as follows:

- Four grab samples each of liquid and sludge from each pond.
- The grab samples from each pond will be composited on-site to yield one fluid and one sludge sample from each pond.



- In the laboratory, composites will be made of a portion of the
   2 fluid samples and a portion of the
   2 sludge samples.
- The two final composites will be analyzed for EP Toxicity (Metals only), pH/corrosivity, reactivity, and ignitability.
- For any parameter exceeding one-half the applicable limit, that parameter will be re-run on the separate pond composites.

Phase 2 consists of the installation of monitor wells, soil sampling, and soil and groundwater analyses. As Phelps Dodge wishes to continue using the ponds, the soil samples will be taken during drilling of a monitor well immediately adjacent to the ponds. As it is about 145 feet to the water table beneath the ponds, this sampling schedule will be able to determine if there has been hazardous migration of defined hazardous waste constituents from the ponds.

Two monitor wells will be installed. One will be immediately adjacent to the ponds and the other approximately 200 feet down-gradient from the ponds. Existing monitor wells within the Phelps Dodge Refinery will be used for up-gradient and background water quality data. Soil samples (20 to 25) will be taken from the well near the ponds for selected metals analyses. Soil samples will not be obtained from the the second well. Both wells will be about 180 feet deep, with 40 feet of screen, and constructed of 5-inch (nom.) PVC. Drilling will be by mud-rotary methods. Each well will be equipped with a permanent electric submersible pump for sampling (Figure 3).

Initially, only the upper four soil samples (5, 10,15, and 20 feet) will be analyzed. Analyses of deeper samples will only be performed if the initial analysis indicates migration of hazardous constituents into the subsurface deeper than 20 feet. The soil samples will be analyzed for pH and any EP Toxicity metals that are significantly present in the

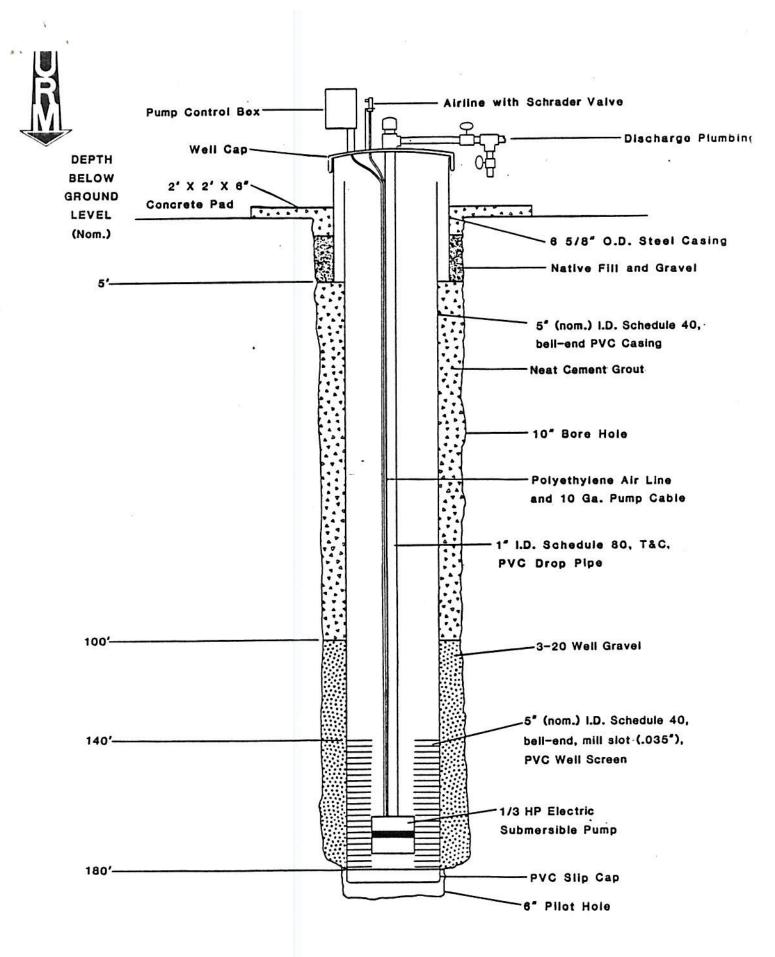


Figure 3. Typical Monitor Well Construction



pond samples.

Groundwater samples from the two new wells and from two existing monitor wells (MW-4 and MW-7) in the refinery will be collected and analyzed. The analyses will be for standard groundwater (Na, K, Ca, Mg, Cl SO<sub>4</sub>, HCO<sub>3</sub>, NO<sub>3</sub>, F, EC, pH, TDS, SiO<sub>2</sub>), copper, and EP Toxicity metals that have significant concentrations in the pond samples. It is also proposed that samples be taken from Water Well Nos. 6 and 7 (background), and subjected to the same analysis. This is to verify that there has been no migration of hazardous constituents into the Hueco Bolson Aquifer, and to evaluate the earlier findings of high (5.2 mg/L) copper in the No. 6 well. The monitor wells will be sampled twice, once immediately after installation and development, and again two weeks later.

A report will be prepared detailing the drilling and analyzing the hydrologic data. It will also present all the analytical data on groundwater, soils, and pond samples, and make conclusions as to the significance of this data.

Phase 3 is contingent on the results of Phase 1 and 2. If hazard-ous wastes are present in the ponds, they will either be removed, treated, or recycled. Liquid hazardous waste will be routed through to the rod mill wastewater treatment plant to be neutralized and then returned to the ponds. If any hazardous sludge is present, it will be dredged out, and if economically recoverable copper is present, it will be shipped to the Phelps Dodge smelter at Douglas, Arizona for smelting and metals recovery. This processing should volatize and/or render inert the non- metallic sludge constituents. If no significant copper is present, the hazardous sludge would be disposed of in an appropriate landfill, after TDWR approval and appropriate treatment.



Phase 4 will be the compilation and submission to the TDWR of a report detailing the closure operation and certifying that the operation followed the approved closure plan. This certification will be both by PDCP and an independent Texas registered professional engineer.

Phase 5 will consist of notifying the El Paso county clerk and the TDWR Executive Director of closure in accordance with TAC 335.219. In addition, notification will be attached to deed records of the site that the site had been used for hazardous waste management.



## CLOSURE PLAN IMPLEMENTATION SCHEDULE

It is anticipated that closure operations can be initiated within 30 days of closure plan approval by the TDWR. The anticipated closure schedule after approval is as follows:

Phase 1:	Waste Sampling and Analysis	30 days
Phase 2:	Soil and Groundwater Investigation	30-60 days
Phase 3:	Removal and/or Processing of Pond Contents	
	(if necessary)	60 <b>-</b> 90 days
Phase 4:	Certification	30 days
Phase 5:	Notification and Deed Recordation	30 days

This schedule assumes that the Phase 2 investigation does not indicate the presence of hazardous impact. If such impact is indicated, this schedule would be revised to allow for the appropriate remedial action.

Some of the above phases can occur concurrently such that 180 days is presently estimated to be the maximum time necessary to implement the closure plan.



## AMENDMENTS TO CLOSURE PLAN FOR-TWO SURFACE IMPOUNDMENTS AT THE PHELPS DODGE - EL PASO ROD MILL

As part of Phase I of this closure plan, at the time of closure, an estimate will be made of the volumes of each of the three waste phases (oil, sludge, and aqueous) present in each pond. Each pond will be sampled according to the following schedule:

Oil Phase - one sample per pond; each sample will be analyzed for ignitability and for the solvents from 40 CFR 261.31, listed in Table 1, attached.

Sludge Phase - two samples per pond; each sample is to be analyzed for EP Toxicity (metals only) following the procedures in SWA-46.

Aqueous Phase - four samples per pond (one per quadrant); each sample to be pH tested at the time of collection; opposite quadrants to be composited in laboratory to yield 2 samples per pond; all 4 of these samples will be analyzed per Table 2.

If samples can be obtained from the pond underdrain systems, they will be analyzed for the same constituents as the Aqueous Phase samples.

Phase II of this closure plan will be expanded to include additional soils sampling and analysis. One soil sample will be taken from the midpoint of the dikes surrounding the ponds, and from the midpoint of the inter-pond dike for a total of five samples. The samples will be taken from a depth of 18 inches. A background soil sample will be taken



# TABLE 1

# Oil Phase Analyses - 1 Sample per Pond

<u>Parameter</u>	Method
Tetrachloroethylene	Sample dissolution in a non-polar organic solvent followed by GC/MS analysis using a BP-20 capillary column.
Trichloroethylene	Sample dissolution in a non-polar organic solvent followed by GC/MS analysis using a BP-20 capillary column.
Methylene Chloride	Sample dissolution in a non-polar organic solvent followed by GC/MS analysis using a BP-20 capillary column.
1,1,1-trichloroethane	Sample dissolution in a non-polar organic solvent followed by GC/MS analysis using a BP-20 capillary column.
carbon tetrachloride	Sample dissolution in a non-polar organic solvent followed by GC/MS analysis using a BP-20 capillary column.
chlorobenzene	Sample dissolution in a non-polar organic solvent followed by GC/MS analysis using a BP-20 capillary column.
1,1,2-trichloro-1,2,2- trifluoroethane	Sample dissolution in a non-polar organic solvent followed by GC/MS analysis using a BP-20 capillary column.
ortho-dichlorobenzene	Sample dissolution in a non-polar organic solvent followed by GC/MS analysis using a BP-20 capillary column.
trichlorofluoroethane	Sample dissolution in a non-polar organic solvent followed by GC/MS analysis using a BP-20 capillary column.



# TABLE 2 Aqueous Phase Analysis - Two Samples per Pond

Parameter			Method
pH			SW-846, #9040
EP Toxicity Metals			SW-846, #1310
Total Mn		•	EPA 600/4-79-020, #243.1
Total Cu	5		SW-846, #7210
Corrosivity			SW-846, #1110
Reactivity			SW-846, #9010 and #9030



from an undeveloped area of the mill, approximately 500 feet east of the ponds. This sample will also be from a depth of 18 inches. All six of these samples will be analyzed for EP Toxicity metals.

Figure 2 shows the location of the ponds, soils sampling points, and monitor wells. Figure 3 is a schematic diagram of the type of monitor well to be installed at the site.

### TEXAS DEPARTMENT OF WATER RESOURCES

1700 N. Congress Avenue Austin, Texas

### IT VAS WATER DEVELOPMENT BOARD

Louis A. Beecherl, Jr., Chairman
G., oge W. McCleskey, Vice Chairman
G. of E. Roney
A. O. Bankston
Lonnie A. "Bo" Pilgrim
Louis Welch



TEXAS WATER COMMISSION
Paul Hopkins, Chairman
Lee B. M. Biggart
Ralph Roming

January 17, 1985

Mr. Bobby E. Stephens, Environmental Coordinator Phelps Dodge Copper Products Company P. O. Box 20200 El Paso, Texas 79998

Re: Phelps Dodge Copper Products Company Solid Waste Registration No. 30825 Closure Plan Review

Dear Mr. Stephens:

In reference to the above-noted matter, we received the Facility Closure Plan on November 7, 1984. As you are probably aware, the Department reviewed this plan and transmitted relevant comments on the Closure Plan by telephone to your consultant, Mr. John Mikels of Underground Resource Management, Inc. Our intention was to request modifications to the plan, but before a letter concerning this was sent to you, we received your modified Closure Plan on January 7, 1985. Accordingly, we consider this Closure Plan to be modified in accordance with 31 TAC 335.218(d).

Our review indicates that the modified Closure Plan is acceptable and is approved for implementation. As we mentioned to you in previous discussions, Phelps Dodge must publish a Public Notice of Facility Closure as required by 31 TAC 335.213(d). The Public Notice is attached to this letter. Please see that Phelps Dodge does the following:

- Publish the enclosed notice in its entirety, at Phelps Dodge expense, in a newspaper of paid circulation which is regularly published or circulated in the county of the geographical location of the facility;
- Mail to the Department, immediately upon publication, the original sworn affidavits from the newspapers giving the date on which the notice was published, using the enclosed affidavit forms; and
- Send a clipping of the published notices with the affidavits.

The notice should be published as soon as possible. Please review the enclosed notice for its accuracy, and make changes if appropriate. You should be aware that any unauthorized changes may result in your republishing an amended notice at your expense.



ir. Bobby E. Stephens Phelps Dodge Copper Products Company Page 2

If you have questions about this matter, please refer them to Mr. Robert W. Lee at 512/475-5695.

Sincerely,

Bryan W. Dixon, P. E., Chief Solid Waste and Spill Response Section Enforcement and Field Operations Division

BL:td

ccs: Texas Department of Water Resources District 10 Office Mr. John Mikels, Underground Resource Management, Inc. Mr. Scott Peterson, Office of the General Counsel



APPENDIX B
Public Notification

# PUBLISHER'S AFFIDAVIT

STATE OF TEXAS	
	8
COUNTY OF EL PASO	<del>-  </del>
Before me on this d	ay personally appeared FRANK M. THOMPSON
	, the <u>CLASSIFIED ADV. MANAGER</u> of the
EL PASO TIMES / F	HERALD-POST , a newspaper
which is regularly publi	shed or circulated in <u>EL PASO</u> County, Texas,
who being by me duly swo	rn deposes and says:
That the foregoing	notice was published in said newspaper
on JANUARY 28	, 1985.
	La m Da as
* 2	I fland ! . St tonge
and y	
Subscribed and swor	n to before me this the 4th day of Titione, 198
	1
Notice of Final Facility Closure  Pursuant to Department Rule	*
Pursuant to Department Rule 33.213(d), the Earr Live Direc- tor of the Texas Expartment of Water Resources force; gives notice of the recept on No-	Rein S. Jarones
vember 7, 1984 of a closure plan perfaining to the hazardous waste management faculty as- sociated with Phens, Dudge	tute 5
for of the Texas Cupartment of Water Resources facetry gives rotice of the recept on No- vermon's 19th of a closur plan seather management facultry as sociated with Pherps. Dudge Copper Products. The Laurity is located on the north sale of the fload with Phart Site immediate in central of the fload with dusting.	Notary Public in and for
Southwest of intersection of IH	County, Texas
Paso. El Paso County. Taxas. Pursuant to the closure-plan submitted. Pheros Dodya Cop- per Products intends to close an	AUCE & TIONNES
on sile nazardous worse surface impoundment utilized for story age of spent acid generated	ALICE S. TARANGO, Notary Public For the State of Texas My Commission Expires Feb. 15, 1988
The purpose of this polyant to	Zapries 760, 15, 1988
opportunity to submit written comments on the closure plan	*
plan. Any comments must be submitted within 30 days of the date of publication of this notice	
To Mr. Bryan W. Gixon, P.E., Chief, Sotio Waste and Staff Re- spone. Section, Texas, Depart-	¥
Down, Bryan W. E. S. C. P. C. Overl. Soin Waste and Stall Resonn. Section, Texas Department of Water Resourcet. P. C. 6 big 1007. Coping Station. Austro. Texas 2011. Put swant to Ruis 133.213 (dd. the Executive	= **
modify, or disapprove the plan	
of the plan is available for pub- lic inspection at the Cristral Of- lica of the Fewas Department of Water Resources. Two views	<u> </u>
Congress Avenue. Austin, Ireas 1911, and at the Opart-ment's Osaric's 10 Office. 1140 Aurway Blvd. Room 15s. El. Pass. Texas 1973. In auditin.	·*
Executive Director may mile	
discretion, haid a public hearing in the closure plan whenever such a hearing might clarify	The state of the s
ane of more issues concurning	·
ic hearing should be supmitted within 18 days of the date of publication of this notice to AV. Bryan W. Dison, P.E. Chief	si si
Solid Waste and Soil Response Section. Tenas Department of Water Resources. P.O. Box 1X8J. Capitol Station. Austin.	
Texas 16/11: felepoune	

Notice of Final Facility Closure

Pursuant to Department Rule 333.213(d), the Executive Director of the Texas Department of Water Resources hereby gives notice of the receipt on November 7, 1984 of a closure plan pertaining to the hazarcous waste management facility associated with Phelps Dodge Cooper Products. The facility is located on the north side of the Rod Alli Plant Site immediate ly west of the Rod Alli Building and approximately 360 ft. southwest of intersection of 1H 10 East and Hawkins Bild, in El Paso, El Paso County, Texas, Pursuant to the closure plan submitted, Phelps Dodge Coper Products intends to close an on-site hazardous waste surface impoundment utilized for storage of spent acid generated from Copper Rod Milling operations.

rom Copper Rod Milling operations.

The purpose of this notice is to give members of the public the opportunity to submit written comments on the closure pian and request modification of the plan. Any comments must be submitted within 30 days of the date of publication of this notice to Mr. Bryan W. Dixon. P.E. Chief, Solid Waste and Soill Resoons Section. Texas Department of Waler Resources. P.O. Box Taxas 28711. Pursuant to Rule 313,213(d), the Executive Director is required to accrove. modify, or disapprove the plan within 90 days of receipt. A coop of the plan is available for public inspection at the Central Crice of the Texas Department of Water Resources. 1700 North Congress. Avenue. Austin. Texas 78711, and at the Central Crice of the Texas Department of Water Resources. 10 Office. 11a0 Airway Blvd. Room 15s. El Paso. Texas 79725. In adaition, pursuant to Rule 313,213(d), the Executive Director may, in response to a request or at his own discretion, hold a public hearing on the closure plan whenever such a hearing might clarify one of more issues concerning the plan. Any request for a cubic hearing should be submitted within 10 days of the case of boulication of this notice to Mr. Bryan W. Dixon. P.E. Chier. Solid Waste and Spill Resoonse 5ection, Texas Department of Waler Resources. 20 Austin. Texas 38711. Texepones 312/475-5695.

Issued in Austin, Texas on Jan-uary 17, 1785. Both: 1/29-15.

#### PASO HERALD-POST, Monday, January 28, 1985 EL

Notice of Final Facility Closure

Pursuant to Department Rule 133:213(d), the Executive Director of the Texas Department of Water Resources hereby gives notice of the receipt on November 7, 1984 of a closure plan pertaining to the hazardous waste management facility associated with Phelos Dodge Copper Products. The facility is located on the north side of the Rod Mill Plant Sile immediate ly west of the Rod Mill Plant Sile immediate ly west of the Rod Mill Building and approximately 3600 ft. southwest of intersection of It! 10 East and Hawkins Blvd, in Ell Paso, El Paso County, Texas. Pursuant to the closure plan submitted. Phelps Dodge Copper Products intends to close an on sile hazardous waste surface impoundment utilized for storage of spent acid generated from Copper Rod Milling operations.

from Copper Rod Milling operalions.

The purpose of this notice is to give members of the public the opportunity to submit written comments on the closure plan and request modification of the plan. Any comments must be submitted within 30 days of the date of publication of this notice to Mr. Bryan W. Dixon, P.E., Chief, Solid Waste and Spill Respons Section, Texas Department of Water Resources, P.O. Box 13087, Capitol Station, Austin, Texas 78711, Pursuant to Rule 335,213(d), the Executive Director is required to approve, modify, or disapprove the plan within 90 days of receipt. A copy of the plan is available for public inspection at the Central Office of the Texas Department of Water Resources, 1700 North Congress Avenue. Austin, Texas 78711, and at the Department's District 10 Office, 1140 Airway Blvd. Room 156. El Pago. Texas 19795. In addition, pursuant to Rule 335,213(d), the Executive Director may, in response to a request or at his own discretion, hold a public hearing on the closure plan whenever such a hearing might clarify one of more issues concerning the plan. Any request for a public hearing should be submitted within 10 days of the date of publication of this notice to Mr. Bryan W. Dixon, P.E., Chief, Solid Waste and Spill Response Section, Texas Department of Water Resources. P.O. Box 13087, Capitol Station, Austin, Texas 74711; telephone 512/475-5695.

Issued in Austin; Texas on Jan-uary 17, 1985. Both: 1/28/85.

TXD048924989

# **Texas Water Commission**

I.A.

# INTEROFFICE MEMORANDUM

TO

The File

DATE:

November 6, 1985

THRU

Susan Ferguson

FROM

Christy Smith

SUBJECT:

Phelps Dodge Refining Corporation Solid Waste Registration No. 30104

Phelps Dodge was referred for enforcement action for violations of hazardous waste regulations for disposal facilities. Current interpretations made by U.S. E.P.A. regarding the mining waste exclusion (40 CFR 261.4(b)(7)) exempt waste generated by Phelps Dodge from regulation as a hazardous waste. Therefore, hazardous waste violations have been removed from the enforcement tracking system and enforcement action regarding solid waste violations will be pursued via an Executive Director letter.

Christy Smith

CS/las

### TEXAS DEPARTMENT OF WATER RESOURCES

CONFERENCE

RECORD 48924989 Phelps - Dodge 30104 Nov 1 Place: SFA 215 Conference date:\_\_\_ Type of conference: permits /entorcement (telephone, staff, formal or informal hearing, other)

### Attendance:

Agency	
	Agency

Phelps-Dodge was informed that according to current interpretation of the mining waste exclusion they do not generate hazardous waste and do not require a Part B permit application. The company indicated they would submit an affadavit of exclusion to withdraw their permit application. Solid waste violations were addressed including discharge of metals in runoff water. The company intends to isolate areas contributing metals to runoff including storage areas for baghouse dust, slag, regractory brick and incinerator ash by changing waste management practices and installing beams. They also plan to close the existing surface impoundments and install a septem to remove metals from the washewater stream. A closure plan will be submitted for the surface impoundments and a schedule to address violations will be sent to the company via Executive Director Letter.

Clarification of the mining waste exclusion by EPA is expected in the next year which may result in listing (K064) of a Phelps-Dodge waste stream. Prepared by: Christy Smith

### TOIOT

# TEXAS DEPARTMENT OF WATER RESOURCES CONFERENCE ATTENDANCE

Project: Phelps Dod	ge 30104	1	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,
conference: permits/	0 .		5
Name	Representing	Title Function, or Position	Phone No.
Christy Smith	TWC	enforcement	512/463-7794
Cindy Smiley	TWC - Legal Divisi	ion attorney	512/463-8069
Sam Gavande	TWC-Permi	ts Proj. Engine	er 512 463-817
MINOR HIBBS	TWC-PERMIT	ts Chief, Permits	512/463-8174
DAVID MCMLATRY	URM		5/2/328-008/
BUBBLY F STEPHENE	Pue pe Done	Restor From	715- 778-2471

### DINGELL SURVEY UPDATE

TXD0489 24989

- Amoco/30042 Company relocated wells 8/84; new wells are adequate for interim status.
- Chemical Waste Management/32325 CME performed 11/13/84; will send NOV by 4/15/85.
- Chevron/30605 Referred to EPA 4/85 for ground water monitoring system review and appropriate enforcement action.
- Denka/31052 Will refer to AG by 5/1/85; NOV of 6/29/84 required ground water assessment; NOV of 8/6/84 required financial assurances; District conducted follow-up inspection 10/1/84.
- Exxon/30040 Ground water monitoring system inadequate, will send NOV by 4/30/85; new wells to be in by 6/15/85.
- Gulf Coast Waste Disposal Authority/39036 CME performed 12/14/84; will send NOV by 4/15/1985.
- Quality Service Railcar/32088 CME performed 2/26/85, and ground water monitoring system was determined inadequate; company was referred to the AG's office January 1985. Draft petition resulted in serious negotiations by company, AG delayed filing petition to maximize company efforts. Petition is expected to be filed by 5/8/85.
- Border Steel/31209 Ground water monitoring system not required during interim status as unit is hazardous waste, p. 6.
- Century Forest Site was leased from property owner and operated as a wood preserving (creosote) plant with creosote wastes discharged to 2 surface impoundments until the site operators allegedly defaulted on a loan and left site 5/13/84. Operators never notified of hazardous waste activities and did not submit Part. A. RCRA GWM requirements were determined through the site inspection conducted 6/13/84 by TDWR of abandoned site. Facility has a potentially low ranking as a superfund site. District office submitted site for formal enforcement action on 7/5/84. Enforcement action has resulted in the establishment of a closure fund (\$180,000) by former operators. NOV of 2/5/85 requires closure on a schedule consistent with PRP financial capability as well as wells to be installed by 10/85. PRP's submitted an acceptable sample plan 3/13/85. Sampling data will be used to draft comprehensive closure plan.

General Motors/30347 - Approved impoundment closure on 2/20/85; drum storage closure is under review, company responded to NOV on 8/16/84.

Nalco Chemical/31479 - Referred to EPA for enforcement action 4/85.

National Chrome/31733 - To be referred to AG by 4/18/85.

PD Copper/30825 - Full facility closure approved 1/17/85; will install non-RCRA wells by 4/30/85.

Permian Chemical/31979 - Inadequate closure plan submitted to TDWR, enforcement meeting on 4/11/85, TDWR considering revocation of interim status by 8/84.

Dixie Chemical/30314 - Adequate ground water monitoring system to be installed by 6/1/85.

Velsicol/30053 - Reffered to EPA for enforcement action 4/85.

Gainesville Foundry/30911 - Waiting for company to publish public notice concerning facility closure.

Rabb Dusting/33219 - Undergoing closure by total removal.

Jamieson Manufacturing/30435 - AG filed petition 4/9/85.

### TEXAS DEPARTMENT OF WATER RESOURCES

1700 N. Congress Avenue Austin, Texas

TEXAS WATER DEVELOPMENT BOARD

Louis A. Beecherl, Jr., Chairman George W. McCleskey, Vice Chairman Glen E. Roney Lonnie A. "Bo" Pilgrim Louie Welch Stuart S. Coleman



Charles E. Nemit Executive Director

April 1, 1935

TEXAS WATER COMMISSION

Paul Hopkins, Chairman Lee B. M. Biggart Ralph Roming

Kimble LIK
Ferguson SSF
Lee ENL
Dixon ON

Hr. Donald T. Fujihira
Assistant to the Chairman
Phelps Dodge Corporation
300 Park Avenue
New York, New York 10022

CERTIFIED MAIL

Dear Mr. Fujihira:

Re: RCRA Financial Assurance and Liability Coverage

El Paso Refinery; Solid Waste Registration Number 30104 El Paso Rod Mill; Solid Waste Registration Number 30825

This agency has received notice of non-renewal of the insurance policy (Evanston #IE 100345) currently providing coverage for non-sudden occurrences at these facilities. Demonstration of this coverage by alternate carrier or mechanism will will be expected prior to June 8, 1985. Failure to secure and maintain complete and adequate liability coverage is a violation of 40 CFR 264 and 265, subpart M requirements.

In addition, it is noted financial assurance for closure of the refinery has yet to be demonstrated. This facility remains in listed violation of 40 CFR 265.143. This matter must be resolved within 30 days to avoid formal enforcement actions. Mr. Russell Kimble is available at (512) 475-5633 for additional information.

Sincerely,

Bryan W. Dixon, P.E., Chief Solid Waste and Spill Reponse Section Enforcement and Field Operations Division

RK:mk

cc: Jay Snow, Permits Division, Solid Waste Section Texas Department of Water Resources District 10 Office Shand MORAHAN & COMPANY INC. SHAND MORAHAN PLANA EVANSTON ILLINOIS 60201 PHONE (312) 866-2500

February 28, 1985



Executive Director
Texas Department of Water Resources
P.O. Box 13087
Capitol Station
Austin, TX 78711

Re: NOTICE OF INTENTION NOT TO RENEW

Insured: PHELPS DODGE CORP., ETAL

Policy No.: IE 100345

Coverage: Claims Made Environmental Impairment Liability

Expiration: June 8, 1985

Insurer: Evanston Insurance Company

### Gentlemen:

Please take notice that the above certificate issued to you through the Evanston Insurance Company and which expires as indicated above will not be renewed by the Insurer. We have recently decided to withdraw from this market and this coverage is no longer available through us.

This letter is therefore our written notice of cancellation or termination of certificate and/or endorsement previously filed as to the following location or facility:

EPA Identification #: TXD007397144 - TDWR #30104

TXD048924989 - TDWR #30825

Location: El Paso Refinery

North Loop Drive

El Paso, TX

El Paso Rod Mill

697 Hawkins El Paso, TX

Very truly yours,

Paul w. Springman/j

Paul W. Springman

Manager

Special Risks Department

cc: Mr. Frank Collin FRANK B. HALL & CO. 261 Madison Avenue New York, NY 10016

PWS/sf

## TEXAS DEPARTMENT OF WATER RESOURCES

1700 N. Congress Avenue Austin, Texas

### TEXAS WATER DEVELOPMENT BOARD

Louis A. Beecherl, Jr., Chairman George W. McCleskey. Vice Chairman Glen E. Roney Lonnie A. "Bo" Pilgrim Louie Welch Stuart S. Coleman



TEXAS WATER COMMISSION

Paul Hopkins, Chairn, an Lee B. M. Biggart Ralph Roming

Charles E. Nemir Executive Direct

August 23, 1985

CERTIFIED MAIL-RETURN RECEIPT REQUESTED No. P 140 252 847

Phelps Dodge Copper Products El Paso Rod Mill P.O. Box 20200 El Paso, Texas 79998

Attention: Steve Sjostrum

Electrical Engineer

Dear Mr. Sjostrom:

RE: Solid Waste Registration No. 30825, El Paso County

On March 28, 1985, District 10 Field Representative Joan Middleton conducted an annual industrial solid waste compliance inspection of the Phelps Dodge Copper Products, El Paso Rod Mill.

The following area of noncompliance were noted during the inspection:

- 1. Failure to notify the Executive Director of the Texas
  Department of Water Resources concerning all industrial
  solid waste generation, management, and disposal activities (refer to the attached copy of the solid waste registration as a reference for additions and/or corrections).
  Texas Administrative Code Section (TACS) 335. 6.
- 2. A hazardous waste determination is required for all unclassified industrial solid waste generated at the El Paso Rod Mill. TACS 335.62.
- 3. Failure to implement proper use and management of hazardous waste containers as required. TACS 335.241-.247, where applicable.
- 4. Failure to properly mark and label hazardous waste containers for off-site shipment. TACS 335.65-.68, where applicable.



Phelips Dodge Copper Products El Paso Rod Mill Solid Waste Registration No. 30825 Page 2

- Failure to manifest the off-site shipments of generated Class I industrial solid waste. TACS 335.10.
- 6. Failure to prepare and maintain on-site for a minimum of three (3) years, the monthly summary regarding any off-site shipments of Class I wastes. TACS 335.13.
- 7. Failure to prepare and maintain on-site for a minimum of three (3) years, the annual waste summary. TACS 335.9, 335.70 and 335.71.
- 8. Failure to prevent the unauthorized discharge/spillage of industrial solid wastes in the product drum storage area, as well as, adjacent to a concrete bay associated with the elementary neutralization unit. TACS 335.4 and Texas Codes Annotated-Water Code, Chapter 26.
- Failure to include in the written operating record, the location and quantity of the waste acid drums stored adjacent to the surface impountments. TACS 335.17b(2).
- Failure to provide financial assurance in the form of non-sudden liability as required. TACS 335.233.

Please note that several of the partially empty fifty-five gallon drums containing acid do not meet the definition of empty as defined in TACS 335.41f(2)A (refer to violations quoted in Items 3 and 4).

11. Failure to provide deed recordation of on-site disposal facilities. TACS 335.5. It is my understanding that proof of deed recordation will be provided relevant to the original unlined hazardous waste surface impoundment upon completion of the required closure.

Please submit a compliance schedule to the District 10 office in Odessa by September 30, 1985, which will ensure correction of the above listed areas of noncompliance by November 1, 1985.

Should you require assistance, please contact me at the District 10 office in Odessa.

Sincerely,

William F. Lockey District Supervisor

WFL/JM: 1mh

Attachment

CC Solid Waste and Spill Response Section - Austin
TDWR/District 10 - El Paso

# TEXAS DEPARTMENT OF WATER RESOURCES Industrial Solid Waste Compliance Monitoring Inspection Report

## INSPECTION COVER SHEET

Main V MIXID Deviator No. 20025	C.O. Use	Only:
Major X TDWR Registration No. 30825	2/05	100 0
Nonmajor EPA ID No. TXD048924989	Data Entry Date	₹£ C
	baca Entry bate	Reviewer
NAME OF COMPANY Phelps Dodge Copper Products		
ADDRESS P.O. Box 20200, El Paso, Texas 79998	PHONE 91	5/778-9371
SITE ADDRESS Hawkins Boulevard, El Paso, Texas	PHONE 91	5/778-9371
COUNTY El Paso TYPE OF INDUSTRY Copper M	ill	
Part A Application submitted to the State ? Yes X No To	EPA ? Yes X No	)
Affidavit of Exclusion submitted to the State ? Yes X No	To EPA ? Yes X	No
Will this facility require a permit ? YesNo_X		
Current Waste Management Activity (Indicate IH, INH, II, III	or check as appro	priate) :
GeneratorIH,INH,ITTreatment StorageIH,INH, Disp	osalTrar	nsporter
HW Exemptions: Sm. Quan. Gen. 90-Day Storage Ot	her	
HW Facilities (circle the appropriate facility codes): C T	SI WP LT LF	I TT TR O
NH Facilities (circle the appropriate facility codes): C T	SI WP LT LF	I TT TR O
Anomalies in the above information will be addressed by : (a)	Enforcement in p	progress
(b) Central Office, (c) District Office X _, (d) O	wner/Operator	<b>•</b>
Inspection Information:		
Type of Evaluation or Inspection (circle one) EV GW	SA FO OT	CL SW (EC)
Inspector's Name and Title Joan Middleton-Environ	mental Quality	Specialist II
Inspection Participants Steve Sjostrom-Electrical	Engineer	**********
Inspection Date(s) March 28, 1985		
Approved : District Supervisor William F. Lockey  Date : Augus	ector Joan Midd t 23, 1985	for
\		

Page 1 of 1

04/01/85

# TEXAS DEPARTMENT OF WATER RESOURCES Industrial Solid Waste Compliance Monitoring Inspection Report

# CONTENTS

FACILITY NAME Phelps Dodge Cooper Products REGISTRATION NO. 30825
X 1. Code Sheet (0814)
X 2. Contents Sheet
X 3. Generator/Facility Checklist (includes Coversheet)
X 4. Component Facility Checklists*
A. Containers (C) - See Section F of Generators Checklist
B. Tanks (T)
X C. Surface Impoundments (SI)
D. Waste Piles (WP)
E. Land Treatment (LT)
F. Landfills (LF)
G. Incinerators (I)
H. Thermal Treatment (TT)
I. Chemical, Physical, or Biological Treatment (TR)
J. Other (0)
5. (a) Closure and Post Closure Checklist, X (b) Closure Supplement
6. (a) Facility Status Sheet(s), (b) Ground Water Monitoring Page
7. Ground Water Monitoring Program Checklist
X 8. Letter of Violation Notification
X 9. Interoffice Memorandum Enforcement Request
X 10. Registration
X 11. Maps, Plans, Sketches
X 12. Other (describe) Closure Plan
* If a required Checklist is omitted, explain: The closure supplement was utilized
in lieu of the closure/post closure checklist as closure of the two hazardous
waste surface impoundments is in progress.

GENERATORS	CHECKLIST

Reg.	No.	30825
------	-----	-------

1. The owner/operator has made a determination that all solid wastes generated are either hazardous or non-hazardous.  2. If the determination is non-hazardous or has not been made by owner/operator, can a hazardous waste determination be made from observations or tests completed during this inspection?  If so, explain in comments. Include documentation.  3. For hazardous wastes identified, check the method(s) used for determination:  a. Listed as a hazardous waste in 40 CFR Part 261, Subpart D.  b. Process or materials knowledge. X  c. Tested for characteristics as identified in 40 CFR Part 261, Subpart C (If equivalent test method is used, attach a copy).  4. Notification of waste streams generated is current.  N/A YES NO X  5. Do all waste management (T/S/D) methods in use agree with registration?	Sect	tion A - Notification and Waste Determination (335.6, .62, .63)	***			
owner/operator, can a hazardous waste determination be made from observations or tests completed during this inspection?  If so, explain in comments. Include documentation.  3. For hazardous wastes identified, check the method(s) used for determination:  a. Listed as a hazardous waste in 40 CFR Part 261, Subpart D.  b. Process or materials knowledge. X  c. Tested for characteristics as identified in 40 CFR Part 261, Subpart C (If equivalent test method is used, attach a copy).  4. Notification of waste streams generated is current.  N/A YES NO X  5. Do all waste management (T/S/D) methods in use agree with registration?  6. Has facility received an EPA ID number?  N/A YES NO X  7. Does this facility generate, store, treat or dispose of PCB wastes?  8. Does this facility generate waste oils?  If yes, describe storage and disposition.  Oil is skimmed from surface impoundments and sold to L & G Oil Company for recovery  9. Does this facility generate spent solvents?  If yes, describe storage and disposition.  Drums of spent solvents are exchanged for new solvents by Safety Kleen  10. Does this facility utilize sumps in the management of hazardous wastes?  If yes, describe use.	1.		N/A YES NO X			
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hazardous wastes?  If yes, describe use.		Drums of spent solvents are exchanged for new solvents by Safety Kleen				
NOT applicable	10.	hazardous wastes?  If yes, describe use.	YESNO_X			
		NOT applicable				

<sup>\*\*\*</sup> An entry in this column indicates corrective action or response is needed

Sect	ion B - Special Conditions (335.75)			
	If generator has received from or transported to a foreign source any hazardous waste, the appropriate notice has been filed with the Regional Administrator (EPA).	N/A <u>X</u>	YES	*** NO
2.	Waste was manifested and signed by the foreign consignee.	N/A X	YES	NO
3.	Confirmation of waste transport out of the country has been received by the generator.	N/A_X	YES	мо
Sect	ion C - Recordkeeping and Reporting (335.9, .10, .13, .7072)			
	Generator maintains the required records and reports for the necessary three years.	N/A	YES	NO_X
	a. Shipping tickets X b. Monthly summaries X SEE COM	MENTS		
	c. Tests and analyses d. Annual reports X e. Except	ion repo	rts	
2.	Have any spills, unauthorized discharges or threats of such discharges occurred?	YES	NO_X	
	If yes, have they been reported (335.4, .453)?	N/A	YES	NO
	Have they been remedied (335.453)? Explain in comments.	N/A	YES	NO_X
***	DO NOT COMPLETE SECTION $\underline{D}$ IF GENERATOR DISPOSES OF HAZARDOUS AND/OR WASTES ONSITE ONLY ***	NONHAZA	ARDOUS	
Sec	tion D - Pretransport and Manifest Requirements (335.6169)			
1.	Identify primary off-site disposal facilities using comments sheet copy of registration.	or		
	<ul> <li>Off-site disposal facilities are either currently permitted or operating under interim status standards.</li> </ul>	N/A	YES	NO_X
2.	TDWR manifest/shipping ticket is properly completed. SEE COMMENTS	N/A	YES	NO X
3.	Generator has submitted exception reports for any return (white) copies of shipping tickets not received.	N/A	YES X	NO
***	STOP HERE IF FACILITY QUALIFIES AS A SMALL QUANTITY GENERATOR PROCEED TO FACILITIES CHECKLIST IF APPLICABLE (H OR NH TSD FACILIT	Y) ***		

		***
4.	Containers used to hold waste(s) meet the DOT packaging requirements of 49 CFR Parts 173, 178, and 179 before being offered for transport (if circumstances observed).	SEE COMMENTS  N/A YES NO X
5.	Generator labels and marks each package in accordance with 49 CFR Part 172 (if circumstances observed).	N/A YES NO X
6.	Each container of 110 gallons or less is marked with the required hazardous waste warning label.	N/A YES NO X
7.	Generator placards off-site waste shipments in accordance with DOT regulations under 49 CFR Part 172, Subpart F.	N/AYES NO_X
Sec	tion E - Accumulation Time (335.69)	
	Note: A facility may accumulate and store hazardous wastes for up t without a permit.	o 90 days
1.	Each container used to temporarily store waste before transport is clearly dated.	N/A X YES NO
2.	Containers and/or tanks are labeled as "Hazardous Waste" while accumulating on site.	N/A X YES NO
Sec	tion F - Container Management (335.241247)	
1.	Wastes are being stored in containers of good condition and of the appropriate type. SEE COMMENTS	N/A YES X NO
2.	Generator inspects containers for leakage or corrosion at least weekly.	N/A YES NO X
3.	Generator locates containers holding ignitable or reactive waste at least 15 meters (50 feet) from the facility's property line.	N/A X YES NO
4.	Containers holding incompatible wastes are separated by a physical barrier or sufficient distance.	N/A X YES NO
5.	Storage area has containment protection as described in 40 CFR Part 264 (this will be a future permit requirement).	N/A YES NO X
6.	Describe drum or container storage area using comments sheet and/or photos.	
	Note: If tanks are used at the facility, complete the Tanks Checklis	st.

Note: If this is a T/S/D Facility (Hazardous or Non-hazardous), proceed to Facilities Checklist.

Checkli	st <u>Ger</u>	nerators	
Date _	March 2	28, 1985	
Req./Pe	rmit No.	30825	

Section A / Paragraph 4, 5: The following industrial solid wastes
generated at Phelps Dodge Copper Products are currently not reflected on
the solid waste registration: Safety Kleen (drum storage-recycled), copper
hydroxide (drum storage-sold for recovery), waste acid (drum storage), spent
liquor solution piped to adjacent Phelps Dodge refinery, and oil absorbent.
Waste determinations will be required. Phelps Dodge is currently in the
Section / Paragraph : process of closing the two hazardous
waste surface impoundments as a result of an enforcement request conference
June 14, 1985 (attached). Each impoundment has a clay underliner, leachate
collection system, and a 36 ml synthetic liner. The impoundments are each
approximately 114' x 124' x 7'. Ground water monitoring wells were never
installed, thus no ground water monitoring program was initiated as required.
Section / Paragraph: The following wastes have been discharged
into the two impoundments: Spent acid metal treatment solution (IH), rolling
mill cooling water containing oil (I), alkaline wax solution (I), and hydraul:
oil (II). A neutralization unit has been under construction for several
years and became fully operational sometime in 1984. At that time the
above-mentioned wastes were no longer directly routed to the two impoundments
Section / Paragraph : but into the neutralization unit. The
treated wastewater was discharged into the City of El Paso Sanitary sewer
system. Currently, waste No. 1 is routed directly into the neutralization
unit (refer to the attached copy of the registration). Waste No 002, 003,
and 004 are routed to the east impoundment where the oil is skimmed off,
thence to the neutralization unit. The treated wastewater is then recycled

Checklist	Ge	enerators
Date	March	28, 1985
Reg./Perm	it No.	30825

Section	/ Paragraph	: back into	the plant.	The west impound-
	lized as a holding b			
	the closure plan, sa			
	us wastes and/or haz			
impoundment	s. Results of the a	nalyses are cu	rrently not	available. Copper
hydroxide s	ludge is generated f	rom the neutra	lizing proce	ess. This sludge is
Section	/ Paragraph	: shipped	to the Phelr	os Dodge plant in
Tyrone, Ari	zona where the coppe	r is recovered	from the wa	ste sludge.
Section A	/ Paragraph 7a	: As prev	iously mention	oned, waste oil is
	the surface of the			
	Company (El Paso) for			
	not manifesting the o			
	on of whether manife			
			· · · · · · · · · · · · · · · · · · ·	
currently p				- facility is
	/ Paragraph 8a			
currently u	under interim author	ization with t	he Texas Dep	artment of Health.
Safety Klee	en waste solvents may	y presently be	manifested	to the Denton
facility u	tilizing the assigne	d TDH registra	tion number	and the E.P.A.
	This status may be			
				•

Checklist	Generators
Date	March 28, 1985
Reg./Permit	No. 30825

Section C / Paragraph la : Shipping manifests and monthly summaries
have not been utilized and maintained relevant to the off-site shipments of
generated Class I wastes. The annual waste summary for 1984 does not reflect
all industrial solid wastes generated/disposed or currently reflect the final
disposition of several of the wastes listed. The 1983 annual waste summary
was not available for inspection.
Section C / Paragraph 2a : Spillage was observed in the product dru
storage area, as well as, adjacent to a concrete bay associated with the
neutralization unit. Identification of the spill materials for the
appropriate waste code classification regarding clean-up is required.
Section D / Paragraph 1-3 : The off-site shipment of the PCB
contaminated capacitors and a drum of corrosive material was properly
manifested, however, Phelps Dodge Copper Products neglected to reflect their
TDWR registration number under Part I of the shipping manifest. The off-site
shipments of the acid drums are currently not being manifested as required.
Section D / Paragraph 4-7 : Phelps Dodge Copper Products is aware of
all DOT shipping regulations as they have previously manifested hazardous
wastes off-site. The acid waste drums are not being treated as hazardous
wastes by Phelps Dodge Copper Products, therefore, DOT requirements for
marking and labeling the drums are not exercised in preparation of off-site
shipments.

Date <u>March 28, 1985</u>
Reg./Permit No. 30825
COMMENTS SHEET
Section F / Paragraph : Phelps Dodge Copper Products stores
empty acid product drums ouside, by a shed, adjacent to the surface
impoundments. The plastic drums are periodically picked up for reconditioning
At the time of the inspection several drums did not meet the definition of
empty. The drums are placed directly on the ground, and there is no run-on
or run-off protection.
Section / Paragraph:
Section/ Paragraph:
Section / Paragraph :

Checklist Generators

Reg. No30825
--------------

### FACILITIES CHECKLIST

Site	Information	for	Hazardous	and	Non-hazardous	T/	S/D	Facilities	:
SILE	THEOTINGCION	TOT	I La La La Casa	uliu	MOII IMMENTAGE	-/'	-/-		•

Are any solid waste facilities located within the 100-year floodplain ? Unknown

Describe land use within one mile <u>Industrial</u>, commercial

Are there any closed or abandoned facilities? If yes, describe in comments.

N/A YES NO

## Section A - General Facility Standards

1. Proof of deed recordation of on-site disposal facilities has been provided to the agency. SEE COMMENTS N/A YES NO X

2. Are all non-hazardous waste facilities compliant with the general prohibition contained in TAC 335.4?

If no, explain in comments.

3. A sketch of facilities, general site orientation showing landfills, surface impoundments, injection wells, drainage routes, water bodies and courses and other pertinent features (separate sketch or diagram of landfills, etc.) should be attached to this and other facility checklists.

Note: For all nonhazardous, noncommercial facilities, do not complete the remainder of this <u>Facilities Checklist</u>. Proceed to the specific component facility checklist(s) and complete one for each waste management facility (one checklist can cover multiple facilities of one type if comments address individual violations).

# Section B - Personnel Training (335.117)

 Owner/operator maintains proper personnel training records at the facility.

N/A YES X NO

2. Personnel training records include:

a. Job title and written job description of each position.

N/A YES X NO

Description of type and amount of training.

N/A\_\_ YES\_X\_NO\_\_

c. Records of training given to facility personnel.

N/A YES X NO

 Personnel training records are maintained for the appropriate length of time.

N/A YES X NO

4. Training program is adequate for response to emergencies.

N/A YES X NO

\*\*\* An entry in this column indicates corrective action or response needed.

# Section C - Preparedness and Prevention (335.131 - 137)

1.	Des env	cribe any evidence of fire, explosion, or contamination of the ironment in the comments sheets.			
2.	Fac	ility is equipped with:			***
	a.	Internal communication or alarm system within easy access.	N/A	YES X	NO
	b.	Telephone or two-way radio to call emergency response personnel.	N/A	YES X	NO
	c.	Portable fire extinguishers, fire control equipment, spill control equipment and decontamination equipment are tested regularly to assure proper operation.	N/A	YES_X	NO
	d.	Available water supply volume and pressure are adequate for hoses, sprinklers or water spray system.	N/A	YES X	NO
3.		ele space is sufficient to allow unobstructed movement of sonnel and equipment.	N/A	YES_X	NO
4.	loc of ass	der/operator has attempted to make arrangements with the cal response authorities to familiarize them with the layout the facility, properties of hazardous wastes handled and sociated hazards, work locations of facility personnel, trances to facility roads and possible evacuation routes.	N/A	YES X	NO
5.	dep	the event that more than one law enforcement or fire eartment might respond, a primary authority has en designated.	N/A	YES_X	NO
6.	eme	mer/operator has attempted to reach agreements with State ergency response teams, emergency response contractors a equipment suppliers.	N/A	YES_X	NO
7.	hos	mer/operator has attempted to make arrangements with local spitals to familiarize them with the properties of the cardous wastes handled and the types of injuries that could sult from fires, explosions or releases from the facility.	N/A	YES X	NO
8.		ate or local authorities have entered into the necessary rangements.	N/A	YES_X	NO
Sec	tion	D - Contingency Plan and Emergency Procedures (335.151157)			
1.	A o	contingency plan adequate to meet emergency procedures quirements is maintained at the facility.	N/A	YES_X	NO
2.	The	e contingency plan is: a. revised SPCC plan b. separate	documen	t _X	
3.	Eme	ergency coordinator is on site or on call at all times.	N/A	YES_X	NO
***	S	TOP HERE IF FACILITY ACCUMULATES WASTE ON SITE FOR LESS THAN 90 I	AYS **	*	

Sec	tion	E - Waste Analysis (335.114)			***
1.	Fac	ility has a waste analysis plan.	N/A	YES_X	NO
2.	Was	te analysis plan is maintained at the facility.	N/A	YES_X_	NO
3.	Was	te analysis plan includes the following:			
	a.	Parameters for which each waste will be analyzed.	N/A	YES_X_	NO
	b.	Test methods used to test for these parameters.	N/A	YES_X_	NO
	c.	Sampling method used to obtain sample.	N/A	YES_X	NO
	d.	Frequency with which the initial analysis will be reviewed or repeated.	N/A	YES_X_	NO
	Not	e: Frequency includes the requirement to repeat analysis whenever waste stream or process is changed.			
	e.	Waste analyses that generators have agreed to provide.	N/A <u>X</u>	YES	NO
	f.	For off-site disposal facilities, the procedures which are used to inspect and analyze each movement of hazardous waste, including:			
		<ol> <li>Procedures to be used to determine the identity of each movement of waste.</li> </ol>	N/A X	YES	NO
		<ol><li>Sampling method to be used to obtain a representative sample of the waste to be identified.</li></ol>	N/A X	YES	NO
Sec	tion	F - Security (335.115)			
1.	The	facility provides adequate security.	N/A	YES X	NO
	a.	24-hour surveillance system, OR			
	b.	X Artificial and/or natural barrier around facility, AND			
		Describe: Fence	и		
	c.	X Means to control access through entrances.			
		Describe: Attendant, locked entrance, controlled roads	yay		
		access	tii		
2.		ility has a sign with the legend "Danger - Unauthorized sonnel Keep Out".	N/A	YES_X	NO

Sec	ction G - General Inspection Requirements (335.116)	
1.	Facility has a written inspection plan and schedule.	N/A YES X NO
2.	Inspection plan is maintained at the facility.	N/A YES X NO
3.	Plan and schedule provide for the inspection of the following:	
	a. Monitoring equipment	N/A YES X NO
	b. Safety and emergency equipment	N/A YES X NO
	c. Security devices	N/A YES X NO
	d. Operating and structural equipment.	N/A YES X NO
4.	Schedule or plan identifies the types of problems to be looked for during the inspection.	N/A YES X NO
	a. Malfunction and deterioration	N/AYES_X_NO
	b. Operator error	N/A X YES NO NO
	c. Discharge or threat of discharge	N/A YES X NO
5.	The owner/operator maintains an inspection log which includes:	
	a. Date and time of inspection	N/A YES X NO
	b. Name of inspector	N/A YES X NO
	c. Notation of observations	N/A YES_X_NO
	d. Date and nature of repairs and remedial action.	N/A YES X NO
6.	Malfunctions or other deficiencies noted in the inspection log have been rectified.	N/A_X YES NO
7.	Inspection log records are maintained for three years.	N/A YES X NO

Sect	ion	H - Requirements for Ignitable, Reactive or Incompatible Wastes	(335.118	3)	***
1.	Owne safe	er/operator is familiar with the proper separation and guards needed to prevent ignition or reaction of wastes.	N/A_X	YES	
	a.	Use comments sheet to describe separation and confinement proceed	dures.		
	b.	Use comments sheet to describe any potential sources of ignition	n or read	ction.	
2.		ing and open flame are confined to specifically gnated smoking areas.	N/A_X	YES	NO
3.	"No	Smoking" signs are posted in hazardous areas.	N/A	YES_X	NO
Sec	tion	I - Manifest System, Recordkeeping and Reporting (335.17117	<u>7)</u>		
1.	Owne	er/operator complies with the manifest requirements.	N/A	YES	NO_X
	Note	: If #1 is not applicable (N/A), go to #6.			
2.	Wast are	ce received from a rail or water (bulk shipment) transporter accompanied by a properly executed shipping paper.	N/A_X	YES	NO
3.	All with	shipments of wastes received have been consistent the manifests.	N/A_X	YES	NO
4.	Unma	anifested wastes are reported to the Executive Director.	N/A	YES	NO X
5.		crepancies have been reconciled with the generator transporter.	N/A X	YES	NO
6.	Own	er/operator keeps a written operating record at the facility.	N/A	YES_X_	NO
7.	Ope	rating record reflects the following:			
	а.	Description and quantity of each hazardous waste received and methods and date of treatment/storage/disposal at the facility.	N/A X	YES	NO
	b.	Location and quantity of each hazardous waste within the facility. Acid Waste Drums	N/A	YES	NO_X
	c.	Records and results of waste analyses and trial tests.	N/A	YES_X	NO
	d.	Summary reports of all incidents that require inplementation of the emergency contingency plan.	N/A X	YES	NO
	e.	Closure cost estimates for all facilities.Surface Impound-	N/A	YES_X	NO
	f.	ments Post-closure cost estimates for all disposal facilities.	N/A_X	YES	NO

Sec	ction J - Financial Assurance (335.233)	***
1.	Preinspection call to Central Office confirms that facility has submitted current financial assurance documentation.  N/A YES NO	370-201
2.	If yes, indicate the documents submitted and their respective values:	
	Yes Sudden Liability - Amount: \$1,000,000 per occurance, \$2,000,000 annual.	
	No Non-sudden Liability - Amount: \$ per occurance, \$ annua	11.
	Closure Assurance - Amount: \$ 60,000	
	N/A Post Closure Assurance - Amount: \$	
3.	Financial Assurance Officer reports that documentation is adequate. N/A YES NO	)
	If no, describe deficiencies:	
	The insurance company cancelled non-sudden liability. Phelps Dodge	
	Copper Products needs to submit a letter from the insurance company to	
	TDWR.	1000 1000000

Checklist	Facilities			
Date	March	28,	1985	
Rea./Perm	it No.	308	325	

Section A / Paragraph 1 : Upon completion of the required closure
proof of deed recordation will be provided to El Paso County regarding the
area of the original unlined hazardous waste surface impoundment.
Section / Paragraph:
Section / Paragraph:
Section / Paragraph:

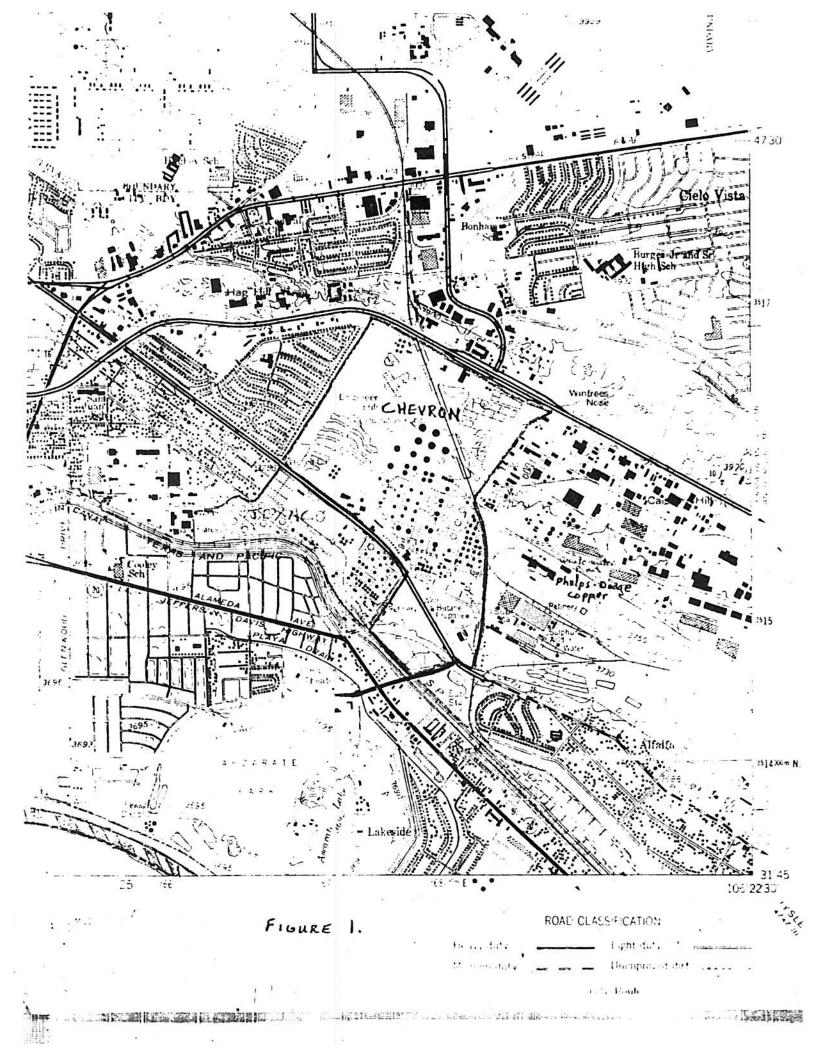
## INDUSTRIAL SOLID WASTE

	Compliance Monitoring Inspection Repor Surface Impoundments Checklist (TAC 335.281	<del>.</del> 288)	Class of	Waste ( IH )
	Two Adjacent Impoundments			***
1.	Are surface impoundments presently used to treat or store waste?	Yes <u>x</u>	No	
	a. If yes, inspect the impoundments.			
**2.	Does the impoundment appear to maintain at least 2 feet (60 cm) of freeboard?		Yes <u>x</u>	No
**3.	Check for evidence of overtopping of the dike. Is the facility compliant?		Yes <u>x</u>	No
**4.	Check for evidence of seepage. Is the facility compliant?		Yes <u>x</u>	No
5.	Containment system for dyked or dammed impoundments (335.283)			
*	*a. Does the earthen dike have a protective cover (e.g. grass, shale, rock) to minimize wind and water erosion?	N/A <u>X</u>	_Yes	No
6.	What wastes are treated or stored in the impoundment? $\underline{\mathbf{E}}$	ast imp	oundmen	t-water
7.	containing oil, alkaline wax solution/wastewate West impoundment-make-up water utilized in plan Are waste analyses and trial tests conducted on these wastes (chemical processing of a different hazardous waste or method only)?	nt proc	hydrau ess. Yes	lic oil.
	a. If not, does the owner/operator have written documented information on similar treatment of similar wastes?		Yes	No
8.	Is this information retained in the operating record?	N/A <u>x</u>	Yes	No
9.	Is the impoundment inspected daily to check freeboard level?	N/AX	Yes	No
10.	Is the impoundment, dikes and vegetation surrounding the dike inspected weekly to detect leaks, deterioration or failures?	N/A_X	Yes	No

TDWR-

Page 3 of 30 of Group II
\*(Changed 9/10/82, response format realigned, other minor changes)
\*\*See Note on Page 1

<sup>\*\*\*</sup>This response column indicates noncompliance.



				<u></u>
11.	Does the impoundment have a liner?	Yes <u>x</u>	No	
	a. If Yes, what type? 36 ml reinforced CPER poly	ethyler	ne line	<u>r</u>
				·
	b. If Yes, does it have a leachate collection and removal system?	Yes_X_	No	
**12.	Is there evidence of ignitable or reactive wastes placed in the impoundment?	Yes	No <u>x</u>	
	a. If Yes, explain in comments sheet [review 335.118(a	a)];		
	b. If Yes, is the impoundment used solely for emergencies?		Yes	No
**13.	Is there evidence of incompatible wastes placed in the impoundment [if yes, review 335.118(b)]?	Yes	No_X	
14.	Are monitor wells required for this site? (Refer to Rule 335.191195 - Ground Water Monitoring)	Yes_x	No	
	a. Has owner/operator installed, operated and maintain a ground water monitoring system (unless waived) prior to 11/19/81?	ied	Yes	No_X
	NOTE 1: Attach Ground Water Monitoring Report if answe	r to que	stion 14	is yes.
15.	Describe impoundment(s) site and indicate plat map, loc designation(s). Also describe each impoundment's dimen (acre-feet): Refer to the attached plant map for	sions an	d capaci	ty of the
	ponds. The two surface impoundments are curre	ently in	the c	losure
	process concerning the storage of hazardous wa	astes.	The im	poundment
	NOTE 2: If the answer is No for Nos. 5a, 7a, 8, 9, 10	and No.	14 after	

are and will be utilized for the storage of nonhazardous wastestreams. Phelps Dodge Copper Products did not initiate ground water monitoring as required. However, an upgradient and several downgradient ground water wells will be monitored on a regular basis.

TDWRPage 4 of 30 of Group II
\*(Changed 9/10/82, response formal realigned)
\*\*See Note on Page 1
\*\*\*See Note Page 3

# Supplement - Closure in Progr s 40 CFR Part 264, Subpart G; Part 265, Subpart G

Note: This checklist is to be completed if facility is in the process of closing a hazardous waste management facility. 1. Type of facility: Surface impoundments Registration facility no. 30825 The closure plan has received TDWR approval or final N/A YES X NO modification. Date of approval: 01 / 17 / 85 3. Identify the type of closure: Final Closure Partial Closure X 4. If this is a partial closure, is this the last facility to be closed requiring RCRA ground water monitoring? N/A YES X NO 5. If this is an interim status facility: a. An approved public notice of closure has been published. N/A YES X NO Date published: 01 / 28/ 85 N/A YES NO X b. Is a public hearing required ? Date of hearing: \_\_\_/\_\_/ N/A YES NO 6. Has on-site closure work started ? Date work initiated: \_\_\_/\_\_/ Is the on-site closure work proceeding in accordance with the work schedule established in the approved closure plan ? N/A YES X NO 8. Have 180 days elapsed since the start of on-site N/A YES NO X closure work ? a. If yes, has the Executive Director approved a closure period of greater than 180 days ? N/A X YES NO 9. Was District office notified of sampling event when complete removal of land facility was to have been N/A X YES NO accomplished? lu. Were TDWR samples taken during the inspection to N/A X YES NO verify completion of closure ? Note: List chain-of-custody tag numbers in comments section.

Page 1 of 1

\*\*\* An entry in this column indicates corrective action or response is needed.



CLOSURE PLAN FOR
TWO INDUSTRIAL SURFACE IMPOUNDMENTS
AT THE
PHELPS DODGE - EL PASO ROD MILL

Prepared for
Phelps Dodge Copper Products Company
El Paso, Texas

JAY 10 1925

Prepared by
Underground Resource Management, Inc.
Austin, Texas

January, 1985



#### INTRODUCTION

The El Paso Rod Mill (Figure 1), operated by Phelps Dodge Copper Products (PDCP), is classified by the Texas Department of Water Resources (TDWR) as a hazardous waste generator/storage/treater/disposer of industrial solid waste. PDCP currently operates two adjacent surface impoundments within the rod mill that are used for storage and reclamation of certain industrial fluids. Prior to early 1983, these fluids were spent pickling liquor, copper-bearing and acidic, water with soluble oil, and an alkaline wax solution. The only characteristic that made these fluids hazardous was low pH. Beginning in early 1983, only non- hazardous materials were and are currently being discharged to the ponds.

The rod mill began operations in 1969. It produces copper wire and rod from copper refined mainly by the adjacent Phelps Dodge Copper Refinery. From January, 1969 until mid-1981, wastes from the mill were discharged into an on-site, unlined, 100' x 200' x 4' evaporation pond (Figure 2). In 1981, at the request of TDWR, the unlined evaporation pond was physically closed, and the current ponds were constructed on the same spot. Prior to construction of the new ponds, the site was cleaned up, but a formal closure plan was never developed. The new ponds have clay underliners, leachate collection systems, and synthetic overliners (36 mil CPE). Each pond is about 114' x 124' x 7', and has a capacity of about 700,000 gallons.

In mid-1981, the industrial fluids were directed into the new lined pond for storage until construction in 1982 of a wastewater treatment plant, designed to render effluent to the pond nonhazardous. This plant became fully operational in early 1983, and was used to reclaim the fluids stored in the lined ponds since their construction. Copper is



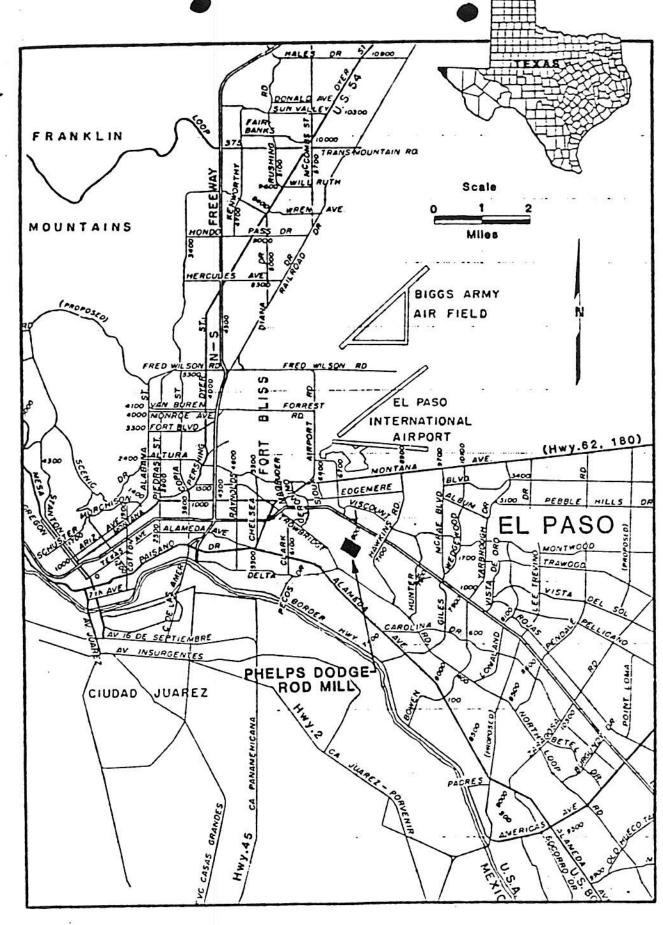
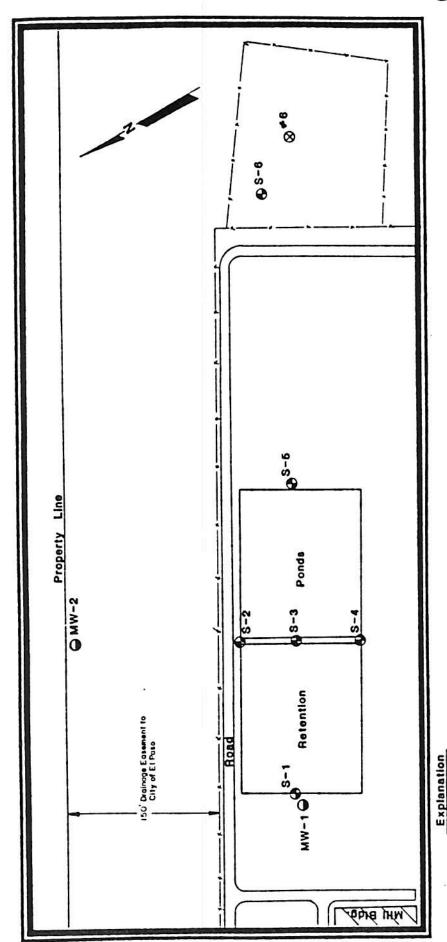


Figure 1. Project Location Map





SCALE 60 FEET

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- Monitor Well
   Soil Sample Location
   Water Well

Figure 2. Phelps Dodge Rod Mill Site Location Map



stripped from the fluids prior to discharge to the pond. In addition, caustic is added to maintain a pH of 6 to 8. Oil discharged to the pond is periodically skimmed off and recycled or sold for salvage. Current total discharge to the ponds is about 400,000 gallons per month, of which about 25 gallons is hydraulic and lubrication oils.

Phelps Dodge wishes to close the ponds as hazardous waste facilities, but continue using them for non-hazardous fluid storage and recycling. Closure as a hazardous waste facility will be done according to the provisions of TAC 335.286. To affect closure pursuant to TAC 335.286, an investigation will be conducted to demonstrate that the pond contents are no longer a hazardous waste, thereby meeting the removal requirements of TAC 335.286, and that migration of hazardous waste constituents to the underlying groundwater system has not occurred.



#### CLOSURE PLAN

At the time of closure, the PDCP ponds should contain no hazardous wastes. However, since the ponds are permitted under interim status, they will be closed as hazardous waste management ponds. The pond will continue to be operated as non-hazardous storage facilities. Closure shall be in accordance with TAC 335.286. The principal phases of the closure plan are:

- Determination of the volume and physical and chemical characteristics of the contents impounded at the time of closure.
- Investigation of groundwater beneath, and soil adjacent to the ponds to determine if hazardous constituents have migrated from the ponds.
- Treatment, recycling, and/or disposal of any hazardous waste determined to be in the ponds.
- 4. Submission of certified closure report to the TDWR.
- 5. Notification to county clerk and in deed records.

For Phase 1, the volume of liquid and any sludge in each pond will be estimated from appropriate depths and areal dimensions. Composite samples of the liquid and of any sludge phases will be analyzed for EP Toxicity Metals, pH/corrosivity, reactivity, and ignitability. The pond underdrain system and monitor wells will also be sampled and similarly analyzed. The sampling and analysis procedure for the ponds will be as follows:

- Four grab samples each of liquid and sludge from each pond.
- The grab samples from each pond will be composited on-site to yield one fluid and one sludge sample from each pond.



- In the laboratory, composites will be made of a portion of the
   2 fluid samples and a portion of the
   2 sludge samples.
- The two final composites will be analyzed for EP Toxicity (Metals only), pH/corrosivity, reactivity, and ignitability.
- For any parameter exceeding one-half the applicable limit, that parameter will be re-run on the separate pond composites.

Phase 2 consists of the installation of monitor wells, soil sampling, and soil and groundwater analyses. As Phelps Dodge wishes to continue using the ponds, the soil samples will be taken during drilling of a monitor well immediately adjacent to the ponds. As it is about 145 feet to the water table beneath the ponds, this sampling schedule will be able to determine if there has been hazardous migration of defined hazardous waste constituents from the ponds.

Two monitor wells will be installed. One will be immediately adjacent to the ponds and the other approximately 200 feet down-gradient from the ponds. Existing monitor wells within the Phelps Dodge Refinery will be used for up-gradient and background water quality data. Soil samples (20 to 25) will be taken from the well near the ponds for selected metals analyses. Soil samples will not be obtained from the the second well. Both wells will be about 180 feet deep, with 40 feet of screen, and constructed of 5-inch (nom.) PVC. Drilling will be by mud-rotary methods. Each well will be equipped with a permanent electric submersible pump for sampling (Figure 3).

Initially, only the upper four soil samples (5, 10,15, and 20 feet) will be analyzed. Analyses of deeper samples will only be performed if the initial analysis indicates migration of hazardous constituents into the subsurface deeper than 20 feet. The soil samples will be analyzed for pH and any EP Toxicity metals that are significantly present in the

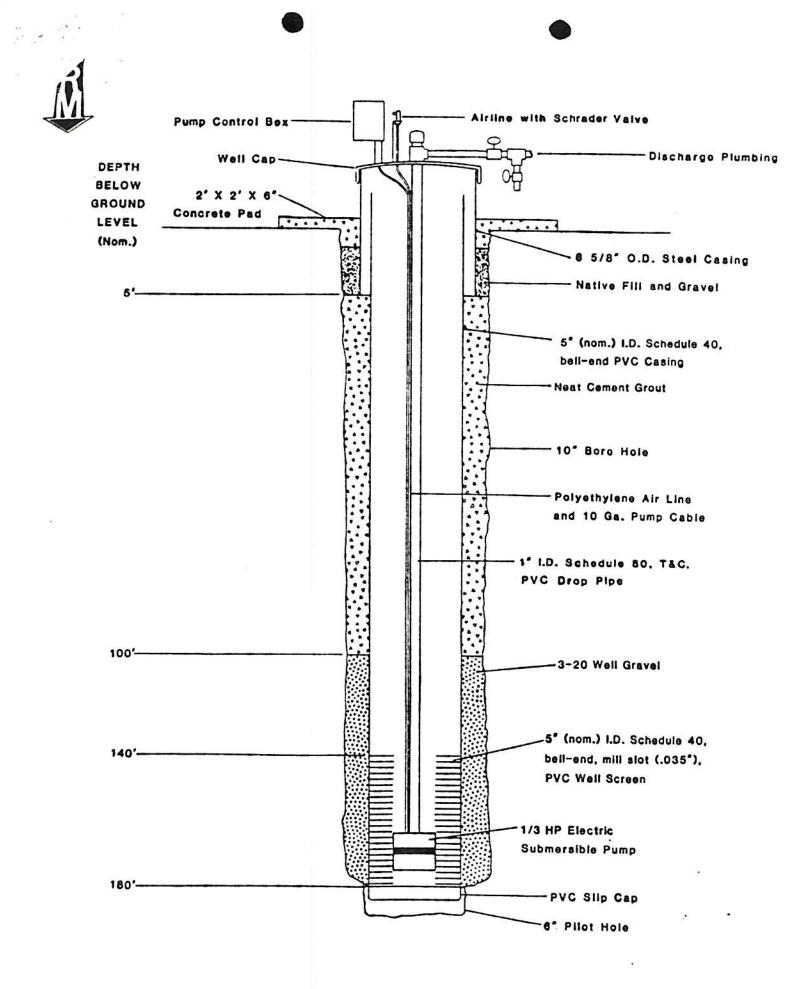


Figure 3. Typical Monitor Well Construction



pond samples.

Groundwater samples from the two new wells and from two existing monitor wells (MW-4 and MW-7) in the refinery will be collected and analyzed. The analyses will be for standard groundwater (Na, K, Ca, Mg, Cl SO4, HCO3, NO3, F, EC, pH, TDS, SiO2), copper, and EP Toxicity metals that have significant concentrations in the pond samples. It is also proposed that samples be taken from Water Well Nos. 6 and 7 (background), and subjected to the same analysis. This is to verify that there has been no migration of hazardous constituents into the Hueco Bolson Aquifer, and to evaluate the earlier findings of high (5.2 mg/L) copper in the No. 6 well. The monitor wells will be sampled twice, once immediately after installation and development, and again two weeks later.

A report will be prepared detailing the drilling and analyzing the hydrologic data. It will also present all the analytical data on groundwater, soils, and pond samples, and make conclusions as to the significance of this data.

Phase 3 is contingent on the results of Phase 1 and 2. If hazardous wastes are present in the ponds, they will either be removed, treated, or recycled. Liquid hazardous waste will be routed through to the rod mill wastewater treatment plant to be neutralized and then returned to the ponds. If any hazardous sludge is present, it will be dredged out, and if economically recoverable copper is present, it will be shipped to the Phelps Dodge smelter at Douglas, Arizona for smelting and metals recovery. This processing should volatize and/or render inert the non- metallic sludge constituents. If no significant copper is present, the hazardous sludge would be disposed of in an appropriate landfill, after TDWR approval and appropriate treatment.

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Phase 4 will be the compilation and submission to the TDWR of a report detailing the closure operation and certifying that the operation followed the approved closure plan. This certification will be both by PDCP and an independent Texas registered professional engineer.

Phase 5 will consist of notifying the El Paso county clerk and the TDWR Executive Director of closure in accordance with TAC 335.219. In addition, notification will be attached to deed records of the site that the site had been used for hazardous waste management.



#### CLOSURE PLAN IMPLEMENTATION SCHEDULE

It is anticipated that closure operations can be initiated within 30 days of closure plan approval by the TDWR. The anticipated closure schedule after approval is as follows:

Phase 1:	Waste Sampling and Analysis	30	days
Phase 2:	Soil and Groundwater Investigation	30-60	
Phase 3:	Removal and/or Processing of Pond Contents		5. <del>5</del> .
	(if necessary)	60-90	days
Phase 4:	Certification	30	days
Phase 5:	Notification and Deed Recordation	00.000.000	davs

This schedule assumes that the Phase 2 investigation does not indicate the presence of hazardous impact. If such impact is indicated, this schedule would be revised to allow for the appropriate remedial action.

Some of the above phases can occur concurrently such that 180 days is presently estimated to be the maximum time necessary to implement the closure plan.

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#### AMENDMENTS TO CLOSURE PLAN FOR TWO SURFACE IMPOUNDMENTS AT THE PHELPS DODGE - EL PASO ROD MILL

As part of Phase I of this closure plan, at the time of closure, an estimate will be made of the volumes of each of the three waste phases (oil, sludge, and aqueous) present in each pond. Each pond will be sampled according to the following schedule:

- Oil Phase one sample per pond; each sample will be analyzed for ignitability and for the solvents from 40 CFR 261.31, listed in Table 1, attached.
- Sludge Phase two samples per pond; each sample is to be analyzed for EP Toxicity (metals only) following the procedures in SWA-46.
- Aqueous Phase four samples per pond (one per quadrant); each sample to be pH tested at the time of collection; opposite quadrants to be composited in laboratory to yield 2 samples per pond; all 4 of these samples will be analyzed per Table 2.

If samples can be obtained from the pond underdrain systems, they will be analyzed for the same constituents as the Aqueous Phase samples.

Phase II of this closure plan will be expanded to include additional soils sampling and analysis. One soil sample will be taken from the midpoint of the dikes surrounding the ponds, and from the midpoint of the inter-pond dike for a total of five samples. The samples will be taken from a depth of 18 inches. A background soil sample will be taken



## TABLE 1 Oil Phase Analyses - 1 Sample per Pond

Parameter	Method
Tetrachloroethylene	Sample dissolution in a non-polar organic solvent followed by GC/MS analysis using a BP-20 capillary column.
Trichloroethylene	Sample dissolution in a non-polar organic solvent followed by GC/MS analysis using a BP-20 capillary column.
Methylene Chloride	Sample dissolution in a non-polar organic solvent followed by GC/MS analysis using a BP-20 capillary column.
1,1,1-trichloroethane	Sample dissolution in a non-polar organic solvent followed by GC/MS analysis using a BP-20 capillary column.
carbon tetrachloride	Sample dissolution in a non-polar organic solvent followed by GC/MS analysis using a BP-20 capillary column.
chlorobenzene	Sample dissolution in a non-polar organic solvent followed by GC/MS analysis using a BP-20 capillary column.
1,1,2-trichloro-1,2,2- trifluoroethane	Sample dissolution in a non-polar organic solvent followed by GC/MS analysis using a BP-20 capillary column.
ortho-dichlorobenzene	Sample dissolution in a non-polar organic solvent followed by GC/MS analysis using a BP-20 capillary column.
trichlorofluoroethane	Sample dissolution in a non-polar organic solvent followed by GC/MS analysis using a BP-20 capillary column.

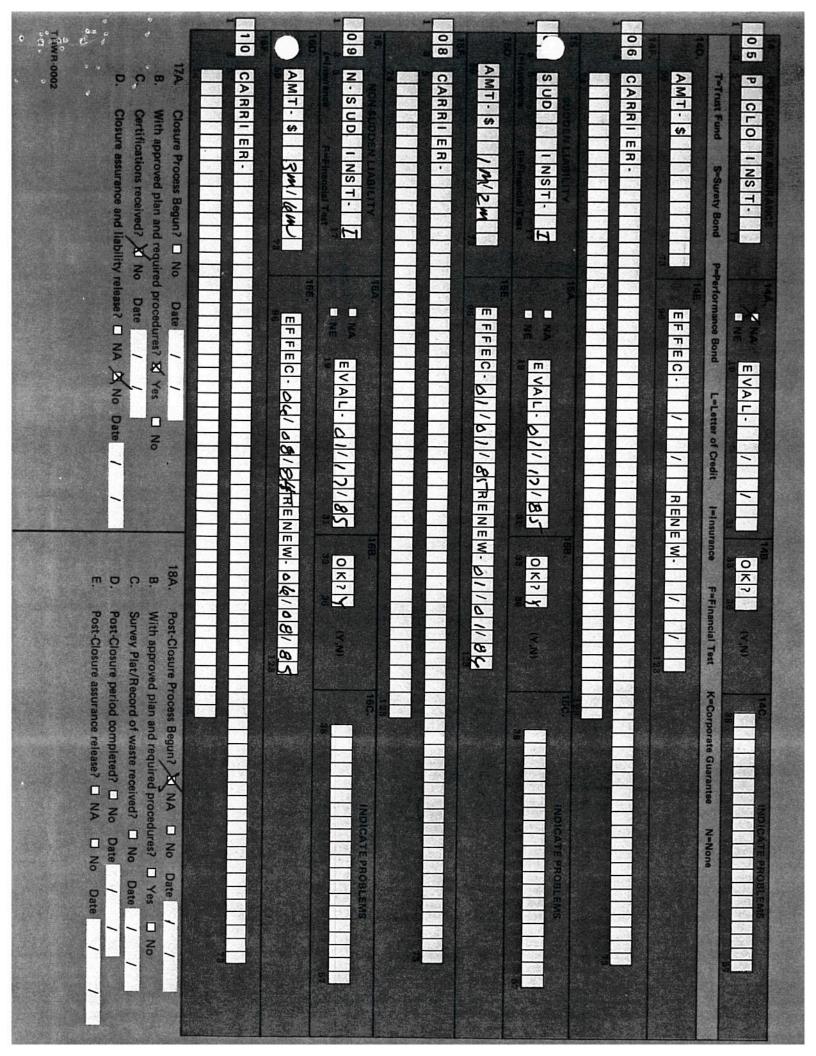


# TABLE 2 Aqueous Phase Analysis - Two Samples per Pond

Parameter	
рН	Method
V-101400	SW-846, #9040
EP Toxicity Metals	SW-846, #1310
Total Mn	
Corrosivity	
Reactivity	
Total Cu Corrosivity Reactivity	EPA 600/4-79-020, #243.1 SW-846, #7210 SW-846, #1110 SW-846, #9010 and #9030



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POST CLOSURE COST ESTIMATE 49 58	P CLOS.	C A A A A A	AMT-SG	C L Os .	CLOSURE COS	CLOSURE	ROUND WATER MC othering Subject to loggra/frost Closure:	EPA ID: Facility Name: A1 Entry Type	Delais
ATE	P L A N :		<b>10</b> 5.0 6 6	I NST - L	COST - ESTIMATE	E P L A N :	UND WATER MONITORING STATUS: withe Subject to ura/Port Closure:		[2]
13A. □ NE	12A. NA NE		EF	2 2	E ONA	PA.	NS A	244998	
E EVAL.	E VAL		FEC-MO/		EVAL-		NA No GWM Begun  Surface Impoundment Weste Pile	Facility Type:	
1	1/1//		12/89RE	- N	611 17 185	EVAL-01/17/185	Waiver (add GWM pg) 200 Land Treatment/Application Other (specify)	TOWR Par./Rag: 30825	FACILITY S
138. 0 K 7	128. 0 K ? 1 33 36		FEC- 201/21/84 FENEW-101/11/85		10B. 0 K? Y		M pg) Detection	District: 28 29 Facility Address:	FACILITY STATUS SHEET
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19c.	38		85		RE V.		Assesment (add GWM pg)	Fin. Assur.: GP S N Reqs. 81 84  Bb X Zd P a E 2  90-day Exemption Sm. Quantity Exe	
REV. AMT - \$	Indicate (No Pla		N-MOINE	INDICATE PROB	А % М М П П	Indicate 47 (No Pla	id GWM pg)	Sm. Quentity Exemption	DATE:
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78					98 73			Db	181



# FACILITY STATUS SHEET GROUND WATER MONITORING PAGE

COMMENTS: Moure completed dut not certifies	7. Ground Water Monitoring Records:	6. Waiver Demonstration:	Report:	5. Ground Water Quality Assessment	4. Notice of Significant Increase in Parameter Concentrations:	3. Ground Water Sampling, Analysis and Evaluation Program:	2. Ground Water Monitoring Well System:	
dit not outified	7A.	SA. NA NE M/D/-Y	5B. NA NE M D Y			3A	$ \begin{array}{c c} 2A. & \square & \square & \Delta I / I / S I \\ NA & NE & M & D / Y \end{array} $	Evaluated?
	Xes No	68.	5C. ☐ ☐ ☐ Yes No			3B. Yess No	<sup>2B</sup> . Yes □	Adequate?
			5D. Showed hazardous consti- tuents in ground water ?	$\sum_{NA} \square \qquad M \qquad \square \qquad - \frac{V}{D} = \frac{V}{D}$	4A. NA NO M D / Y			

from an undeveloped area of the mill, approximately 500 feet east of the ponds. This sample will also be from a depth of 18 inches. All six of these samples will be analyzed for EP Toxicity metals.

Figure 2 shows the location of the ponds, soils sampling points, and monitor wells. Figure 3 is a schematic diagram of the type of monitor well to be installed at the site.

#### Texas Department of Water Resources

#### INTEROFFICE MEMORANDUM

Gary Schroeder, Chief,

TO : Solid Waste and Spill Response Section, DATE: January 5, 1984

Enforcement and Field Operations Division

THRU

FROM : William F. Lockey, District 10 Supervisor

SUBJECT: Enforcement Action Request: Phelps Dodge Copper Products, Solid Waste Registration No. 30825, El Paso County

Attached is an Investigation Report concerning Phelps Dodge Copper Products Solid Waste Registration No. 30825. In preparing and/or reviewing this report, I find that it is accurate and that the proposed recommendations will bring about the correction of those problems which are causing the violations. Please review this matter for appropriate enforcement action.

District Supervisor

Attachment

Investigation Report
Phelps Dodge Copper Products
El Paso Rod Mill
Solid Waste Registration No. 30825
Hawkins Boulevard
El Paso, El Paso County
Telephone (915) 778-9371

#### Introduction

#### A. Identification

Phelps Dodge Copper Products (El Paso Rod Mill) is located in an industrial district in El Paso, El Paso County, Texas. Phelps Dodge Copper Products is a copper mill manufacturing various copper products.

Personnel in charge: Mr. Steve Sjostrom, E.E.

- B. Permit and/or Registration
  - 1. Solid Waste Registration No. 30825.
- C. Permit Provisions

Refer to the attached Solid Waste Registration No. 30825.

D. Background Information

Under the Solid Waste Disposal Act, by November 19, 1981 Phelps Dodge Copper Products was to have implemented a ground water monitoring program capable of determining the facility's impact on the quality of the ground water in the uppermost aquifer underlying the facility with respect to the two lined surface impoundments utilized for the storage/disposal by evaporation of Class I hazardous, Class I non-hazardous, and Class II generated wastes.

An earthen wastewater pond (refer to Figure 2 for location) was constructed on-site in December 1967 and went into service approximately January 1969. The dimensions of the unlined pond were 100'x200'x4'. Originally, the wastewater pond was accepting, for disposal, a spent acid solution containing a significant level of copper, an alkaline wax solution, and hydraulic oil. Sometime after May 1978, the rolling mill cooling water, which was recirculated from several concrete retention basins, was routed to the unlined wastewater pond. The concrete retention basins were covered.

A June 14, 1979 annual solid waste compliance inspection prompted a survey concerning the possible impact upon the ground water resulting from the possible seepage of the wastewater from the unlined earthen pond utilized for disposal. It was determined that a very significant amount of the wastewater was lost by seepage, into the soil, from the pond (Figure 3). As a result,

Phelps Dodge Copper 1 oducts Solid Waste Registration No. 30825 page 2

Phelps Dodge Copper Products was required to abandon and close the unlined wastewater pond. The company was also requested to submit a ground water assessment proposal due to the loss of wastewater by seepage (Figure 4). This report was submitted to the Texas Department of Water Resources January 28, 1981. After review, the Texas Department of Water Resources relieved Phelps Dodge of any further responsibility to the study as there was no evidence of any immediate impact upon the ground water (Figure 5).

Two surface impoundments (each 114'x124'x7') were constructed adjacently in the same area as the original pond. Each impoundment was lined with a 36 mil CPER polyethylene liner. The two impoundments currently except a spent acid metal treatment solution, rolling mill cooling water containing oil, an alkaline wax solution, and hydraulic oil (refer to Figure 6 for analyses). An oil skimmer located at the surface impoundments collects the majority of the oil which is sold for recovery.

Several annual solid waste compliance inspections (May 20, 1982 and July 13, 1982) which succeeded the November 19, 1981 deadline for the implementation of a ground water monitoring program revealed that Phelps Dodge Copper Products has failed to comply with the requirements regarding the ground water monitoring program.

#### II. Waste Handling Facility

#### A. Type of Facility

Phelps Dodge Copper Products is a noncommercial copper mill that manufactures various copper products. Phelps Dodge is classified as a major solid waste facility under their Solid Waste Registration No. 30825 issued by the Texas Department of Water Resources.

#### B. Description of Facility

Phelps Dodge Copper Products utilizes two lined surface impoundments for an on-site waste management facility for the storage/disposal by evaporation of the spent acid metal treatment solution, rolling mill cooling water containing oil, an alkaline wax solution, and hydraulic oil (refer to attached registration). The oil is skimmed and sold for recovery. Copper hydroxide, which is generated by a neutralization process, is placed on railcars and sold for recovery. Several unmarked fifty-five gallon metal containers store PCB contaminated capacitors. These containers are located in the southwest corner of the concrete floored transformer room, which is on the north side of the plant building.

Investigation Report
Phelps Dodge Copper Toducts
Solid Waste Registration No. 39825
page 3

Presently, Phelps Dodge Copper Products is implementing a neutralization process plant for wastewater purification (Figure 7). The neutralization process plant was to be operational by the latter half of 1982. Phelps Dodge plans to file an Affidavit of Exclusion from hazardous waste permitting requirements. One surface impoundment will be retained for emergency use. At the time of the July 13, 1983 annual solid waste compliance inspection, the process plant was not fully operational. The two lined surface impoundments were accepting wastewater.

Phelps Dodge Copper Product's Solid Waste Registration No. 30825 does not reflect all current facility waste management activities, specifically: storage of PCB contaminated capacitors, the generation of copper hydroxide from the neutralization process, final disposition of the copper hydroxide, and all wastes treated in the neutralization process plant. The shipping requirements under the Industrial Solid Waste Rules apply to any off-site shipment of the PCB contaminated capacitors.

Under the Industrial Solid Waste Rules, Phelps Dodge Copper Products was to have established:

- Financial assurance for the "current" closure costs of the facility by July 6, 1982, and to adjust the cost for inflation on an annual basis.
- 2) Sudden accidental occurrence coverage (one million per occurrence with an annual aggregate of at least two million) demonstrated by July 15, 1982.
- Nonsudden accidental occurrence coverage (three million per occurrence with an annual aggregate of at least six million) demonstrated by January 16, 1983.

At the time of the July 13, 1983 annual solid waste compliance inspection, Phelps Dodge had failed to provide the required financial assurance and liability coverage. In addition, Phelps Dodge failed to provide "No Smoking" signs posted adjacent to the surface impoundments. The written contingency plan, closure plan, operating record, and inspection schedule were incomplete (refer to Violations of this report for specifics).

#### iii. Water Quality Impact

A. Surface Water

There appears to be no imminent threat to the surface waters of the state.

B. Ground Water

No recent samples have been acquired from the facility and/or

Investigation Report

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Solid Waste Registration No. 30825
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area ground water wells to determine if the wastewater has had an impact upon the ground water. A sample obtained September 25, 1979 from a company well located approximately 450 feet east of the unlined wastewater pond (total depth 617 feet) indicated insignificant amounts of copper, iron, and manganese present at that time (Figure 8). The possibility of ground water contamination, however, does exist.

Permit or Other

#### IV. Previous Enforcement Action

None to date.

#### V. Violations

Vio	lations	Data Source	Permit or Other Requirement	
1.	Failure to implement a ground water moni- toring program capable of determining the fac- ility's impact on the quality of the ground water in the uppermost aquifer underlying the facility (two lined sur- face impoundments)	Annual Solid Waste Compliance Inspec- tion Date: May 20, 1982 July 13, 1983		
2.	Failure to establish financial assurance for the closure costs of the facility by July 6, 1982 and to adjust the cost for inflation on an annual basis	Annual Solid Waste Compliance Inspec- tion Date: July 13, 1983	TAC Sections 335.231-335.235	
3.	Failure to establish sudden accidental occurrence coverage (one million per occurrence with an annual aggregate of at least two million) by July 15, 1982	Annual Solid Waste Compliance Inspec- tion Date: July 13, 1983		
4.	Failure to establish nonsudden accidental occurrence coverage (three million per occurrence with an annual aggregate of at least six million) by January 16, 1983	Annual Solid Waste Compliance Inspec- tion Date: July 13, 1983		

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#### V. Violations

#### Data Source

Permit or Other Requirement

Failure to notify the Executive Director of all current waste management activities: storage/disposal of PCB contaminated capacitors, generation of copper hydroxide from the neutralization process, final disposition of the copper hydroxide, and all wastes treated in the neutralization process plant.

Annual Solid Waste Compliance Inspec- 335.6 tion Date: July 13, 1983

TAC Section

Failure to post "No Smoking" signs adjacent to the two lined surface impoundments

Annual Solid Waste Compliance Inspection Date: July 13, 1983

TAC Section 335.118

7. Failure to properly label containers and area storing PCB contaminated capacitors

Annual Solid Waste Compliance Inspec-July 13, 1933

40 CFR Subpart C 761.40 (A) (9)

8. Failure to complete the written contingency plan with required information: tion Date: arrangements agreed to by State and local emergency response teams to coordinate emergency responses, the names, addresses, telephone numbers (office and home) of all persons qualified to act as emergency personnel, and a list of all the emergency equipment at the facility

Annual Solid Waste TAC Section Compliance Inspec-335.153 July 13, 1983

Failure to complete the written closure plan with required information: tion Dates: the maximum inventory of wastes in storage or in July 13, 1983 processing at any given time during the life of the facility, the description of the decontamination of the facility equipment and structures during closure, an estimate of the

Annual Solid Waste Compliance Inspec-May 19, 1982

TAC Sections 335.213, 335.216 Investigation Report

Phelps Dodge Copper Foducts
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page 6

expected year of closure and a schedule for final closure activities, and certification of closure, including the estimated number of inspections

10. Failure to complete the Annual Sol written operating record Compliance with required information: tion Date: the location and quantity July 13, 1 of each hazardous waste within the facility and the method of storage/disposal utilized, the records and results of the waste analyses and trial tests and the closure cost estimates for all facilities utilized

Annual Solid Waste TAC Section Compliance Inspec- 335.173 tion Date: July 13, 1983

11. Failure to complete the written inspection schedule with required information: inspection of the neutralization process plant and operation error

Annual Solid Waste TAC Section Compliance Inspec- 335.116 tion Dates: May 20, 1982 July 13, 1983

#### VI. Causes of the Violation

Phelps Dodge Copper Products was required to line the original unlined wastewater pond as seepage was evident.

From recent annual solid waste compliance inspections, (May 20, 1982, July 13, 1983), it has been determined that Phelps Dodge has failed to implement a ground water monitoring program capable of determining the facility's impact on the quality of the ground water in the uppermost aquifer underlying the facility, by November 19, 1981. Also, Phelps Dodge has not established:

- 1) Financial assurance for the closure costs of the facility, required by July 6, 1982.
- 2) Sudden accidental occurrence coverage demonstrated by July 15, 1982
- Nonsudden accidental occurrence coverage demonstrated by January 16, 1983.

Phelps Dodge Copper Products is implementing a neutralization process plant for wastewater purification. The solid waste registration has not been undated to reflect the generation of copper hydroxide from the neutralization process, the final dis-

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Phelps Dodge Copper Poducts
Solid Waste Registration No. 30825
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position of the copper hydroxide, and the current status of the neutralization process plant and the wastes treated. Also, the registration does not reflect the storage/disposal of PCB contaminated capacitors. The fifty-five gallon metal containers storing the contaminated capacitors are not labelled accordingly, nor is the area where the containers are located.

Phelps Dodge Copper Products is required to post "No Smoking" signs adjacent to the two lined surface impoundments due to a layer of oil on the surface of the impoundments.

Phelps Dodge Copper Products does not maintain the required completed written plans/records for the following:

- contingency plan
- 2) closure plan
- 3) operating record
- 4) inspection schedule

#### VII. Technical Recommendations

In order to achieve compliance, it is recommended that Phelps Dodge Copper Products:

- Implement a ground water monitoring program
- 2) Establish financial assurance
- 3) Establish sudden accidental occurrence coverage
- 4) Establish nonsudden accidental occurrence coverage
- 5) Notify the Executive Director of the current and/or future status of the generated solid wastes and the processing and storage/disposal facilities located at the El Paso Plant, specifically:
  - a) storage/disposal of PCB contaminated capacitors
  - b) generation of copper hydroxide from the neutralization process
  - c) final disposition of the copper hydroxide
  - d) status of the neutralization process plant and all wastes treated
- 6) Post "No Smoking" signs adjacent to the two lined surface impoundments

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page 8

- Label the containers storing PCB contaminated capacitors, as well as, the storage area
- 8) Complete the following written plans/records with the required information outlined in V. Violations:
  - a) contingency plan
  - b) closure plan
  - c) operating record
  - d) inspection schedule

### TEXAS DEPARTMENT OF WATER RESOURCES NOTICE OF REGISTRATION INDUSTRIAL SOLID WASTE GENERATION/DISPOSAL

THIS IS NOT A PERMIT AND DOES NOT CONSTITUTE AUTHORIZATION OF ANY DISPOSAL FACILITIES LISTED BELOW. REQUIREMENTS FOR SOLID WASTE MANAGEMENT ARE PROVIDED BY CHAPTER 22, RULES OF THE TEXAS DEPARTMENT OF WATER RESOURCES.

DATE OF NOTICE: 01-14-83

JAN 25 1983

REGISTRATION NUMBER: 30825

DEPT. OF

THIS NUMBER IS TO PROVIDE ACCESS TO STORED INFORMATIONATER RESOURCES PERTAINING TO YOUR OPERATION. PLEASE REFER TO THIS NUMBER OF THE TOTAL TOTA

REGISTRATION DATE: D2-D7-77

STATUS: ACTIVE

COMPANY NAME: PHELPS DODGE COPPER PRODUCTS MAILING ADDRESS: EL PASO ROD HILL- S.A.SJOSTROM

P.O.BOX 20200 EL PASO, TEXAS

79998

GENERATING SITE LOCATION: HAWKINS BOULEVARD, EL PASO, TEXAS

PERSON IN CHARGE: STEVE SJOSTROM

PHONE: (915) 778-9371

NUMBER OF EMPLOYEES: 100-249

IDER DISTRICT: 10

#### I. WASTE GENERATED:

	WASTES	CLASS	CODE	DISPOSITION
L01	ACID METAL TREATMENT SOLUTION (SPENT)	1	100100	ONSITE
U02	OIL (WATER SOLUBLE), WATER CONTAINING	1	109810	ONSITE
6.03	ALKALINE WAX SOLUTION	1	110610	ONSITE
604	OIL, HYDRAULIC	II	210480	SOLD FOR RECOVERY
L05	PLANT REFUSE, GENERAL MISC.	II	279760	OFF-SITE

REGISTRATION NUMBER: 30825

. . . . . . . . .

COMPANY NAME: PHELPS DODGE COPPER PRODUCTS

II. SHIFPING/REPORTING: NOT APPLICABLE

111. ON-SITE WASTE MANAGEMENT FACILITIES:

FAC NO FACILITY

PI LABOUMZPONO DISPOSAL

UF WASTE(S) NUMBER(S) UO1 UO2 003 004

PL WASTE TREATMENT FACILITY FROCESSING OF WASTE(S) NUMBER(S) 001

FACILITIES ARE LOCATED ON PROPERTY OWNED AND/OR EFFECTIVELY CONTROLLED BY PHELPS DODGE COPPER PRODUCTS

AT HAWKINS BOULEVARD, EL PASO, TEXAS COUNTY OF EL PASO IN SEGMENT 2308 OF BASIN: RIO GRANDE RIVER BASIN

#### IV. PECCRUS.

A. FUR PURPOSES OF FILING ANNUAL REPORTS PURSUANT TO CHAPTER 22 OF THE RULES OF THE TOWR, RECORDS SHOULD BE MAINTAINED FOR STORAGE, PROCESSING AND/OR DISPOSAL OF THE FOLLOWING WASTES LISTED IN PART I:

QUI 100103 ACID METAL TREATMENT SOLUTION (SPENT)

002 109818 OIL (WATER SOLUBLE), WATER CONTAINING

003 110610 ALKALINE WAX SOLUTION

DD5 279760 PLANT REFUSE, GENERAL MISC.

PAGE 03

LEGISTRATION NUMBER: 30825

COMPANY NAME: PHELPS DONCE COPPER PRODUCTS

E. PROOF OF RECORDATION IN THE COUNTY DEED RECORDS, AS REQUIRED BY CHAPTER 22 OF THE RULES OF THE TOWN, SHOULD BE SUBMITTED TO THE EXECUTIVE DIRECTOR FOR THE FOLLOWING FACILITIES LISTED IN PART III IN ACCORDANCE WITH THE FOLLOWING SCHEDULES:

NEW FAUILITIES - PRIOR TO INITIATION OF DISPOSAL OPERATIONS.

EXISTING FACILITIES - AS SOON AS POSSIBLE, BUT NO LATER THAN SIXTY (60) DAYS FROM THE DATE OF THIS NOTICE, UNLESS PREVIOUSLY SUBMITTEE.

IAC NO	FACILITY	STATUS	DATE
01	LAGUON/PONE	ACTIVE	00/00

#### TEXAS DEPARTMENT OF WATER RESOURCES

1700 N. Congress Avenue Austin, Texas 30825

#### TEXAS WATER DEVELOPMENT BOARD

Louis A. Beecherl, Jr., Chairman George W. McCleskey, Vice Chairman Glen E. Roney W. O. Bankston Lonnie A. "Bo" Pilgrim Louie Welch



Harvey Davis
Executive Director
July 30, 1982

TEXAS WATER COMMISSION Lee B. M. Biggart, Chairman Felix McDonald

John D. Stover

Mr. D. H. Rudd Phelps Dodge Copper Products Hawkins Boulevard El Paso, Texas 79998

Dear Mr. Rudd:

Re: Solid Waste Registration 30825; Industrial Solid Waste Disposal Compliance Inspection

On May 20, 1982 Texas Department of Water Resources representative Gary Raven, District 10 Odessa, met with Steve Sjostrom of your staff to conduct a compliance monitoring inspection of your facility's industrial solid waste disposal practices. During the inspection several items of non-compliance were noted:

- A) The latest notice of registration for Phelps Dodge Copper Products lists disposal of waste hydraulic oil (04) into an on-site lagoon. This oil however, is reported as sold for reclamation off-site to Metro Oil Company of El Paso, Texas. The registration also does not include plant refuse disposal at off-site municipal landfills. Written notice to the Executive Director is required (Texas Administrative Code Section 335.6 (c)) in the continuing obligation to update changes and to provide additional information concerning your registration. You dan contact Mr. Allan Seils at the TDWR Austin Central Office concerning these changes. Additionally, if the planned changeover from pond storage of your wastes to processing for disposal to the City of El Paso sewer system has occurred, please indicate this alteration to Mr. Seils. All related pertinent information concerning the new process will help to expedite the review.
- B) A written waste analysis plan must be kept at the facility

AUG 13 1982

which describes the parameters for hazardous wastes to be analyzed, including test and sampling methods, frequency and provisions for resampling when processes change. Texas Administrative Code Section (TACS) 335.114 (b).

- C) A sign must be posted at or near the active portion of the hazardous waste facility (English and Spanish) to prohibit entry of unauthorized personnel to the area. TACS 335.115 (c).
- D) A written inspection schedule is required by an owner to detect malfuntions, operator error, deterioration, etc. at the hazardous waste site. This schedule must be recorded in a log or summary format. TACS 335.116.
- E) A training program is to be provided by an owner or operator to ensure hazardous waste facility personnel are able to respond safely and effectively to emergency conditions. Documentation is required to indicate this training and is to be kept on file for three years for former personnel and until closure for present employees. TACS 335.117.
- F) An owner must have on file, at the facility, as of May 19, 1981, a written closure plan identifying steps necessary to completely or partially close the hazardous waste facility at the end of its' operating life, or at any point during its intended life. TACS 335.213.
- G) Surface impoundments storing hazardous wastes must maintain two feet of freeboard to insure overfilling of the impoundment. Conditions at the time of inspection indicated less than this two foot standard. TACS 335.282.
- H) On November 19, 1981 all operators of surface impoundments storing hazardous wastes must have implemented a groundwater monitoring program or have on site a written demonstration certified by a qualified geologist or geotechnical engineer indicating a low potential for migration of hazardous wastes from the facility via the upper most aquifer to water supply wells. TACS 335.191. Your facility is presently reported as negotiating with a consultant to demonstrate this low potential for migration. At the time of inspection however, this demonstration was unavailable.

Please refer to the above referenced Texas Administrative Code Sections for specific requirements regarding the items of non-compliance. Also, please respond in writing within

Mr. D. H. Rud page 3 July 30, 1982

thirty days with your actions to correct the outlined deficiencies. If you have any questions please contact the District 10 office at:

204-A West 5th Street Odessa, Texas 79760 915/337-5122

Sincerely

William F. Lockey District 10 Supervisor

WFL-GR/pb

cc Solid Waste Section

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#### TEXAS DEPARTMENT OF WATER RESOURCES

1700 N. Congress Avenue Austin, Texas 30825

#### TEXAS WATER DEVELOPMENT BOARD

Louis A. Beecherl, Jr., Chairman George W. McCleskey, Vice Chairman Glen E. Roney W. O. Bankston Lonnie A. "Bo" Pilgrim Louie Welch



Harvey Davis Executive Director

June 11, 1982

TEXAS WATER COMMISSION

Lee B. M. Biggart, Chairman Felix McDonald John D. Stover

Mr. D.H. Rudd Phelps Dodge Copper Products Hawkins Boulevard El Paso, Texas 79998

Dear Mr. Rudd:

Re: Industrial Solid Waste Registration No. 30823

The records of the Self-Reporting System indicate that we have not received any annual report(s) concerning the disposal of solid waste from the above facility for the year 1981.

Compliance with the reporting requirements contained in the Industrial Solid Waste Management Regulations of the Texas Water Development Board is a requirement of your registration. Failure to submit the proper report(s) is considered a violation of this regulation and the Solid Waste Disposal Act.

Therefore, you should compile any and all delinquent report(s) and submit them as required. If you have previously submitted the report(s), please send us a copy for our records. We should receive the report(s) by July 1, 1932. Your immediate attention to this matter will be appreciated. Should you have any questions concerning this letter, please contact Jake Fritsch, Shipping Control and Effluent Reports, Texas Department of Water Resources, area code 512/475-5647.

Singerely,

Gary D. Schroeder, P.E., Chief

Solid Waste and Spill Response Section Enforcement and Field Operations Division

CR/IL ....

JUN 21 1982

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JRF:td

cc: Texas Department of Water Resources District 10

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XI. MAP			
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treatment, storage, or disposal facilities, and each well wi	here it injects fluids und	erground. Include all sp	rings, rivers and other surface
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XII. NATURE OF BUSINESS (provide a Brief description)			
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XIII. CERTIFICATION (see Instructions)			
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PAGE 4 OF 5

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TXD 0 489 24989

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



MAILED DATE

NOV 2 9 2006

OF THE ORDER

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING PHELPS DODGE REFINING CORPORATION RN101463644

BEFORE THE

8 8 8

TEXAS COMMISSION ON

§ §

ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2006-0566-IHW-E

#### I. JURISDICTION AND STIPULATIONS

At its NOV 1 5 2006 agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Phelps Dodge Refining Corporation ("Phelps Dodge") under the authority of the TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Phelps Dodge appear before the Commission and together stipulate that:

- 1. Phelps Dodge owns and operates a copper refinery located at 897 Hawkins Boulevard in El Paso, El Paso County, Texas (the "Facility").
- 2. The Facility involves or involved the management of industrial hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
- 3. The Commission and Phelps Dodge agree that the Commission has jurisdiction to enter this Agreed Order, and that Phelps Dodge is subject to the Commission's jurisdiction.
- 4. Phelps Dodge received notice of the violations alleged in Section II ("Allegations") on or about May 9, 2006.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Phelps Dodge of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 6. An administrative penalty in the amount of Twenty-Four Thousand Seven Hundred Fifty Dollars (\$24,750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Phelps Dodge has paid Nineteen Thousand Eight Hundred Dollars (\$19,800) of the administrative penalty and Four Thousand Nine Hundred Fifty Dollars (\$4,950) is deferred contingent upon Phelps Dodge's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed

Order. If Phelps Dodge fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Phelps Dodge to pay all or part of the deferred penalty.

- 7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director of the TCEQ and Phelps Dodge have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
- 9. The Executive Director recognizes that Phelps Dodge, as indicated in a self-disclosure of violation letter to the TCEQ dated April, 18, 2006, has implemented the following corrective measures at the Facility:
  - a. Reclassified the following wastestreams from "non-hazardous" to hazardous: fire assay laboratory wastes (analytical results exceeded the toxicity characteristic concentration for lead of 5.0 mg/L); used plastic gasoline filters (process knowledge was utilized to characterize the waste as hazardous for ignitability and toxic for benzene); and refinery casting furnace insulation wastes (analytical results exceeded toxicity characteristic concentration for arsenic of 5.0 mg/L);
  - b. Begun conducting weekly inspections of container storage areas;
  - c. On August 9, 2004, properly disposed of a roll-off bin containing metal contaminated solids which exceeded the allowed accumulation time of 90 days and on September 28, 2005 properly disposed of two "hazardous" waste laboratory packs which also exceeded the 90 day accumulation time; and
  - d. Containerized and properly disposed of soil characterized as hazardous for exceeding the toxicity characteristic for lead. The last container was shipped off-site on April 28, 2005.
- 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Phelps Dodge has not complied with one or more of the terms or conditions in this Agreed Order.
- 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

#### II. ALLEGATIONS

As owner and operator of the Facility, Phelps Dodge is alleged to have:

- 1. Failed to prevent the disposal of hazardous waste at an unauthorized facility, in violation of 30 TEX. ADMIN. CODE § 335.2(b), as documented during a record review conducted on April 18, 2006 of a letter from Phelps Dodge dated April 18, 2006. Specifically, Phelps Dodge disposed of hazardous waste at a New Mexico landfill not authorized to accept hazardous waste. The wastes were identified as follows: a) fire assay laboratory wastes (crucible 258 mg/L Toxicity Characteristic Leaching Procedure ("TCLP") lead, cupel 5,100 mg/L TCLP lead, slag 450 mg/L, TCLP lead); b) used gasoline filters (process knowledge utilized to characterize waste as hazardous for ignitability and toxic for benzene); and c) refinery casting furnace insulation waste (inswool 10.3 TCLP arsenic, 2.18 mg/L TCLP selenium, fiberboard 15.3 mg/L TCLP arsenic).
- 2. Failed to conduct weekly inspections of container storage areas, in violation of 30 Tex. ADMIN. CODE §§ 335.112(a)(8), 335.69(a)(1)(A) and 40 CODE OF FEDERAL REGULATIONS §§ 262.34(a)(1)(i), and 265.174, as documented during a record review conducted on April 18, 2006 of a voluntary disclosure letter dated April 18, 2006. Specifically, Phelps Dodge failed to conduct weekly inspections of the following areas; a) environmental storage area for the weeks of July 25, and August 1, 2004; b) roll-off bin storage area for the weeks of May 4, and 18, June 15, July 13, and 17, 2003, February 1,8,15, 22 and 29, 2004, and c) centrate rail car storage area for the weeks of April 13, 20 and 27, and October 19 and 26, 2003, and February 1 and December 26, 2004.
- Failed to ensure that hazardous waste is not accumulated on-site for than 90 days without a permit, in violation of 30 Tex. ADMIN. CODE § 335.69(a) and 40 CODE OF FEDERAL REGULATIONS § 262.34(a), as documented during a record review conducted on April 18, 2006 of a voluntary disclosure letter TCEQ dated April 18, 2006. Specifically, one container of metal contaminated solids and two "hazardous" waste laboratory packs were accumulated on-site for 98 and 103 days, respectively.
- 4. Failed to conduct a hazardous waste determination at the time the waste was generated, in violation of 30 Tex. ADMIN. CODE §§ 335.62 and 335.504 and 40 CODE OF FEDERAL REGULATIONS § 262.11, as documented during a record review conducted on April 18, 2006 of a voluntary disclosure letter dated April 18, 2006. Specifically, excavated soil, totaling approximately 315 cubic yards of waste, were sampled and analysis indicated the waste exceeded the TCLP hazardous concentration for lead of 5.0 mg/L.

#### III. DENIALS

Phelps Dodge generally denies each allegation in Section II ("Allegations").

#### IV. ORDERING PROVISIONS

It is, therefore, ordered by the TCEQ that Phelps Dodge pay an administrative penalty as set forth in Section I, Paragraph 6 above. The imposition of this administrative penalty and Phelps Dodge's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Phelps Dodge Refining Corporation, Docket No. 2006-0566-IHW-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- The provisions of this Agreed Order shall apply to and be binding upon Phelps Dodge. Phelps
  Dodge is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control
  over the Facility operations referenced in this Agreed Order.
- 3. This Agreed Order, issued by the Commission, shall not be admissible against Phelps Dodge in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- 4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
- 5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Phelps Dodge, or three days after the date on which the Commission mails notice of the Order to Phelps Dodge, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Phelps Dodge Refining Corporation DOCKET NO. 2006-0566-IHW-E Page 5

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Wathleen H. White Porthe Commission		
For the Executive Director	9/28/06 Date	

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional
  penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

Phelps Dodge Refining Corporation

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

| B | B | OC |
| Date |
| Name (Printed or typed)
| Authorized Representative of

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues

Section at the address in Section IV, Paragraph 1 of this Agreed Order.



Phelps Dodge Copper Products Company & Phelps Dodge Refining Corporation PO Box 20001, El Paso, TX 79998 • (915) 778-9881 • FAX (915) 775-8897

Disclosed to TCEQ Regional Office

April 18, 2006

#### VIA HAND DELIVERY

Mr. Archie Clouse Regional Director Texas Commission on Environmental Quality 401 East Franklin Avenue Suite 560 El Paso, Texas 79901-1212

Re: Phelps Dodge Mining Company's El Paso Refinery Voluntary

Disclosure of "Hazardous" Waste Violations and Deficiencies

Dear Mr. Clouse:

Phelps Dodge Mining Corporation's El Paso Refinery ("El Paso Refinery"), an entity within Phelps Dodge Corporation, is today voluntarily disclosing "hazardous" waste violations and "hazardous" waste deficiencies to the Texas Commission on Environmental Quality ("TCEQ") at its facility located in El Paso, Texas. The El Paso Refinery requests that TCEQ exercise its enforcement discretion and not seek gravity-based penalties because El Paso is voluntarily disclosing the violations and deficiencies without an obligation to do so.

As you may be aware, Phelps Dodge Corporation has been in discussions with U.S. Environmental Protection Agency ("EPA") Headquarters senior management regarding potentially entering EPA's voluntary "National Environmental Performance Track." During these discussions, senior executives from Phelps Dodge Corporation have stressed the Corporation's commitment to environmental stewardship. These disclosures should be viewed as demonstrating the Corporation's commitment to environmental stewardship and to act responsibly in addressing deficiencies in its compliance status.

Hereafter, we describe the regulatory violations and deficiencies and what corrective actions the El Paso Refinery and Phelps Dodge Corporation have taken, and will continue to take, to minimize the likelihood of repeat violations.

#### The Violations and Deficiencies

The El Paso Refinery (EPA/TCEQ Generator Identification Number TXD048924989) is a "large quantity generator" ("LQG") of "hazardous" waste. The El Paso Refinery discloses the following "hazardous" waste violations and deficiencies at its facility:

A LQG is required to perform a waste determination of its waste to determine whether it is a "hazardous" waste. 40 C.F.R. § 262.11 (30 T.A.C. §§ 335.62, 335.504). El Paso discloses the following instances where a waste was incorrectly characterized.

Fire Assay Laboratory Wastes. In February 2002, the El Paso Refinery sampled and analyzed fire assay laboratory wastes (consisting of used crucibles, cupels and slag) to determine whether they would exhibit the "hazardous" waste characteristic of "toxicity." 40 C.F.R. § 261.24 (30 T.A.C. § 335.504(3)). El Paso received analytical results reporting total metals concentrations, with the exception of lead which was reported as a percentage. Based on the results, facility personnel were concerned with the total concentration reported for selenium and had additional testing performed per the toxicity characteristic protocols for selenium. The wastes did not fail the toxicity characteristic for selenium. Because facility personnel did not notice the reported lead value as a percentage, no additional testing was performed per the toxicity protocols for lead.

Because the results indicated that the fire assay laboratory wastes did not fail the toxicity characteristic for selenium, and no other reported total metals concentrations suggested that the toxicity characteristic limits could be exceeded for any other analytes (assuming, as facility personnel did, that the lead value was reported as a total metal concentration and not as a percentage), facility personnel concluded that the fire assay laboratory wastes did not exhibit the toxicity characteristic. Also, based on process knowledge, the El Paso Refinery concluded that the fire assay laboratory wastes did not exhibit any other "hazardous" waste characteristic, were not a listed "hazardous" waste, and did not result from the mixture of a listed "hazardous" waste, or from the treatment of a listed "hazardous" waste. Thus, based on the "hazardous" waste determination performed per 40 C.F.R. § 262.11 (30 T.A.C. §§ 335.62, 335.504), the El Paso Refinery managed its fire assay laboratory wastes as non-hazardous "solid" waste.

El Paso recently retested its fire assay laboratory wastes and on November 15, 2005, received analytical results that the wastes failed the toxicity characteristic for lead. The El Paso Refinery is unaware of a process change that would result in a different analytical result. El Paso now manages its fire assay laboratory wastes as "hazardous" waste. As before, based on process knowledge, El Paso

Mr. Archie Clouse April 18, 2006 Page 3

does not believe that its fire assay laboratory wastes exhibit any other "hazardous" waste characteristic, are not listed "hazardous" waste, and do not result from the mixture of a listed "hazardous" waste, or from the treatment of a listed "hazardous" waste.

We do not believe that this rises to the level of a "hazardous" waste violation, but rather may present a deficiency in El Paso's waste characterization program. Nonetheless, it is being disclosed to TCEQ with today's submission.

<u>Used Plastic Gasoline Filters</u>. In another instance, El Paso concluded that used plastic gasoline filters generated through the servicing of on-site equipment and discarded were "solid" waste. Recent characterization efforts have led El Paso to characterize the used plastic filters as "hazardous" waste for the characteristics of ignitability (40 C.F.R. § 261.21) and toxicity for benzene (40 C.F.R. § 261.24) (30 T.A.C. § 335.504(3)) when discarded. El Paso now manages the used plastic filters as "hazardous" waste.

Refinery Casting Furnace Insulation Wastes. Finally, El Paso periodically generates Refinery casting furnace insulation wastes (consisting of used fiberboard and inswool) during shutdowns at the Refinery casting operation. El Paso had previously characterized the wastes as "solid" waste. Based on recharacterization efforts, El Paso has determined that the wastes are a "hazardous" waste via the toxicity characteristic for arsenic (40 C.F.R. § 261.24, 30 T.A.C. § 335.504(3)). El Paso now manages the Refinery casting furnace insulation wastes as a "hazardous" waste.

- A LQG is required to perform weekly inspections of "hazardous" waste containers located within its 90-Day Hazardous Waste Accumulation Areas. 40 C.F.R. §§ 262.34(a)(1)(i), 265.174 (30 T.A.C. §§ 335.69(a)(1)(A), 335.112(a)(8)). Weekly inspection forms must be maintained for three years. 40 C.F.R. § 265.15(d) (30 T.A.C. § 335.112(a)(8)). From April 17, 2003 through present, weekly inspections of the El Paso 90-Day Hazardous Waste Accumulation Areas were not performed or documented on at least 18 occasions and performed but not documented during that time on one occasion. 

  1
- A LQG is required to ship its "hazardous" waste stored in a 90-Day Hazardous
  Waste Accumulation Area off-site within 90 days of the accumulation "start"
  date. 40 C.F.R. § 262.34(a) (30 T.A.C. § 335.112(a)(8)). The El Paso Refinery is
  aware of three instances where "hazardous" wastes were stored in excess of 90
  days.

Please advise El Paso as to whether TCEQ would like a list of the missing weeks.

In the first instance, a container of "Metal Contaminated Solids," with an accumulation "start" date of May 3, 2004, was shipped off-site on August 9, 2004. The El Paso Refinery became aware of the storage beyond 90 days on August 9, 2004 and promptly arranged shipment off-site on August 9, 2004. A copy of the "hazardous" waste manifest for the shipment is included as Attachment A. The El Paso Refinery did not request an extension of time to manage the waste in excess of 90 days from either EPA or TCEQ because it was able to arrange for the shipment of the material off-site on the same day that it discovered the storage in excess of 90 days.

In the second and third instances, two "hazardous" waste laboratory packs with accumulation "start" dates of June 17, 2005, were shipped off-site on September 28, 2005. The El Paso Refinery did not immediately notice the containers were being held on-site for longer than 90 days because the materials were consolidated into a single laboratory pack for shipment off-site in August 2005 and the technician performing the repackaging placed a "hazardous" waste label on the laboratory pack and inserted the date of the repackaging as the accumulation "start" date. El Paso personnel became aware of this on September 26, 2005 and did not request an extension of time to manage the waste in excess of 90 days from either EPA or TCEQ because it was able to arrange for the shipment of the material off-site within two days of discovery. The manifest for this shipment is included as Attachment B.

• An entity engaged in activities that disturb environmental media at a site may need to perform a waste characterization on that media if it is being "actively managed" at the site. Both EPA and TCEQ, however, recognize that the removal of soil during excavation or construction activities and the redeposition of the soil within the same area does not constitute either the generation of a waste or the "land disposal" of a waste. See Letter from Sylvia Lowrance, EPA, to Douglas Green, Piper & Marbury (June 11, 1992); 30 T.A.C. § 350.36(a) (stating that the excavation of soil during construction activities and subsequent placement of the soil into the same excavation is not considered the relocation of that soil).

In late February 2006, El Paso personnel discovered eight piles of soil at the site totaling approximately 315 cubic yards. El Paso personnel are unsure how the soil was generated, and where it was originally located but, based on facility records of excavation and grading activities, and the fact that El Paso's environmental staff periodically tour the facility looking for potential environmental issues, believe the soil was generated through on-site activities sometime in 2005 or early 2006.

After discovery of the soil, El Paso collected a sample from each of the eight piles and analyzed the samples for total metals. Based on the results, which ranged

from 20-7700 ppm for lead, analysis was performed for lead using the toxicity characteristic leachate procedure ("TCLP") test. 40 C.F.R. § 261.24 (30 T.A.C. § 335.504(3)). Five of the eight samples failed the TCLP test for lead. Notably, using a "20 to 1" evaluation of the relationship between a total metals result and corresponding anticipated TCLP result, some of the total metals results anticipated to fail TCLP did not and some of the total metals results anticipated not to fail TCLP did fail. TCEQ has previously recognized that the TCLP test may "over predict" the amount of leachable lead in a sample. See TCEQ, Establishing Critical Protective Concentration Levels (PCLs) for Lead-Affected Soils (August 2, 2001).

Based on the analytical results, El Paso promptly moved to containerize the soil in roll-offs, close the containers, and label each container with the words "Hazardous Waste" and an accumulation "start" date of February 27, 2006, the date the soil piles were discovered. Several containers have been manifested off-site to a permitted treatment/storage/disposal facility and all remaining containers will be off-site by April 28, 2006.

We view this as a deficiency in our excavation and construction notification system and a deficiency in our management of contaminated media. Had El Paso's environmental staff been made aware of the contemplated activity that generated the soil in question, the regulatory status of the soil could have been evaluated and a decision made to place the soil in the area from which it was originally removed, or to characterize the soil and manage appropriately either onsite or off-site.

As you are aware, the El Paso facility has recently been accepted into TCEQ's Voluntary Cleanup Program ("VCP"). Under the Program and in coordination with the Risk Reduction Program ("RRP"), El Paso would have more flexibility regarding the management of soil generated through on-site excavation and construction activities. For example, under the VCP and RRP, removed soil being relocated to another area of the site may be placed in that other area so long as the soil does not exceed the critical soil protective concentration level ("PCL") for the new location. 30 T.A.C. § 350.36(a)(5).

#### **Corrective Actions**

Upon receipt of the analytical results regarding the "hazardous" waste status of its fire assay laboratory wastes, the El Paso Refinery set up a "hazardous" waste satellite accumulation container in its Analytical Laboratory at/near the point of initial generation of the wastes. El Paso set up similar areas for its used plastic gasoline filters and used Refinery casting furnace insulation wastes. Also, as noted above, El Paso promptly moved to ship its "hazardous" waste at issue off-site as soon as possible from its discovery of the non-compliances. Finally, El Paso

Mr. Archie Clouse April 18, 2006 Page 6

promptly moved to containerize and manage all the lead-contaminated soil discovered at the site as "hazardous" waste notwithstanding the fact that not all of the soil failed the TCLP test for lead and the fact that the TCLP test may overestimate leachable lead in a sample.

The El Paso Refinery has taken steps to prevent a reoccurrence of the disclosed violations and deficiencies. The employee responsible for tracking waste accumulation time related to the 2004 incident was terminated, and the employees responsible for repacking the container in 2005 were instructed on the 90-day accumulation date remaining with the waste even upon repacking. Further, El Paso has instructed its employees of the regulatory requirement to perform weekly "hazardous" waste inspections and to document the inspection contemporaneously with the inspection. El Paso has also implemented a procedure to routinely reanalyze wastes at the site to ensure that they are adequately characterized. In the event of a process change that could alter a prior waste determination, El Paso's "change tracking system" will ensure that wastes generated at that process will be evaluated, and as necessary reanalyzed, to determine whether the prior waste determination will change as a result of the process change.

Finally, relating to the contaminated soil, El Paso has modified its dig and excavation permit process so that El Paso's environmental staff will be consulted in advance of any on-site activity that has the potential to generate environmental media. In turn, the environmental staff will determine what options are available should contaminated media be generated, including placing the material back in the area where it was removed or managing the material under the VCP and RRP.

Further, the El Paso Refinery has committed to more frequent internal and external reviews of its "hazardous" waste management activities, in general, and the areas of the disclosed violations, in particular. Also, Phelps Dodge Corporation has committed to performing more frequent "hazardous" waste reviews of El Paso's activities. Finally, the El Paso Refinery became certified in 2005 as an International Standards Organization (ISO) 14001 facility. The ISO is an international body that develops consensus standards, including environmental compliance management systems, such as ISO 14001. All of these programs, taken together, are steps that are taken to prevent a recurrence of the disclosed violations and deficiencies.

As you may be aware, a comprehensive "hazardous" waste inspection at the El Paso Refinery was performed in July 1999 by EPA Region VI personnel. The inspection report was issued in January 2003 and the El Paso Refinery entered into a Letter Agreement with EPA Region VI in August 2004. Neither the Inspection Report nor the Letter Agreement relate to the generation, management and disposal of waste materials, to the performance of weekly "hazardous" waste inspections, to the storage of "hazardous" waste in excess of 90 days, or to the generation and management of contaminated environmental media.

Mr. Archie Clouse April 18, 2006 Page 7

#### Conclusion

The El Paso Refinery is committed to cooperating with TCEQ regarding the resolution of the issues voluntarily disclosed today. El Paso assures TCEQ that it takes seriously its responsibility to comply with all applicable environmental laws and regulations and that it has taken/is taking the steps required to prevent future violations of TCEQ's "hazardous" waste regulations. Please contact either Chad Fretz, El Paso's Manager of Environmental Services, at 915-775-8303, or me at 915-775-8801, with any questions regarding our submission.

Sincerely yours,

Kevin Carpenter

Vice President and General Manager

El Paso Refinery

Attachments

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY P.O. Box 13087 Austin, Texas 78711-3087



Plane print or type (Form designed for use on elite (12-nitch) typewriter.

Form approved. OMB No. 2050-0039.

T		itch) typewnter.)				
	UNIFORM HAZARDOUS WASTE MANIFEST	I Do	Manifest cument No.	2. Pag of 1	is not	ation in the shaded areas required by Federal law.
1	3. Generator's Name and Mailing Address	Phelps Dodge El Paso Operatio		A. Stat		cument Number
1		897 Hawkins Blvd.				4830
		El Paso, Texas 79915		B. Stat	e Generator's	
	4. Generator's Phone 015 778-9881		hor	C Sta	308 te Transporter's	
1	5. Transporter 1 Company Name				nsporter's Phor	00215
-	Chemical Transportation, Inc. 7. Transporter 2 Company Name	8. US EPA ID Num	her		te Transporter's	71 1-000-1101
	7. Transporter 2 Company Name	1			nsporter's Phon	
+	9. Designated Facility Name and Site Add				te Facility's ID	
1	US Ecology, Inc.					D0032
1	Highway 95, 11 Miles South of Bea	ntty NVT 330 010 000		H. Fac	ility's Phone	
	Beatty, NV 89003	TXD-06945	2 3 4 0	MHS		800-239-3943
Г	11A. 11. US DOT Description (including	Proper Shipping Name, Hazard Class, ID	12. Contai		13. Total	Unit I.
L	HM Number and Packing Group)		No.	Type	Quantity	Wt/Vol Waste No.
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1	C.					
	54		1		2 2 2 3	
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	d.					
-	J. Additional Descriptions for Materials List	ed Above		K. Han	dling Codes for	Wastes Listed Above
	11a) Metal contaminated solids, als				M	129
200	Profile # 07-013-21969	Entransis and the				
1	Bin# 239821					
	15. Special Handling Instructions and Addi	tional Information				
	245	Ob d From 01	5 770 NO	01		
	24 En	nergency contact: Chad Fretz 91	3-110-90	01		
ŀ	16. GENERATOR'S CERTIFICATION: I hereby	declare that the contents of this consignment are full	y and accurate	ly descri	bed above by pro	oper shipping name and are
П	classified, packaged, marked, and labelled/p national government regulations, including a	placarded, and are in all respects in proper condition policable state regulations.	1 for transport	by nignw	ay according to a	applicable international and
	If I am a large quantity generator, I certify the	at I have a program in place to reduce the volume	and toxicity of	waste ge	enerated to the d	egree I have determined to
П			and loxicity of			high minimum the present
	be economically practicable and that I have and future threat to human health and the el	selected the practicable method of treatment, storaging incomment: OR, if I am a small quantity generator, I	e, or disposal	currently	available to me was effort to minimiz	which minimizes the present
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## Attachment B

## FEXAS COMMISSION ON ENVIRONMENTAL QUALITY P.O. Box 13087

Austin, Texas 78711-3087

Please print or type. (Form designed for use on elite (12-pitch) typewriter.)



Form approved. OMB No. 2050-0039.

	ı	JNIFORM HAZARDOUS	1. Generator's US EPA		ment No.	2. Pa	ige 1			the shaded areas by Federal law.
1	3 Ger	WASTE MANIFEST nerator's Name and Mailing Address		e El Paso Operations			ate Man		cument N	
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			El Paso, Tex			B. St		erator's	ID	
1	4. Ger	nerator's Phone <b>915</b> 778-9881	Attn: Martin					3082		6215
		nsporter 1 Company Name	б. Т. <b>У</b>	US EPA ID Numbe R. 0.0.0.0.3.3				sporter's	ים ו	5-860-1161
-		nsporter 2 Company Name	8.	US EPA ID Numbe				sporter's		000 1101
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	Ro	signated Facility Name and Site Addressing Environmental Tech. S.W.	ess 10.	US EPA ID Numbe	r		ate Fac		AZI	0009015389
		60 W. Allison Road andler, AZ 85226	ıA Z	D. 0. 0. 9. 0. 1. 5	3.89	H. Fa	acility's F	Phone	520-79	90-1040
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		ecial Handling Instructions and Addit 24 Em			-778-98				Vertical lines III	
	cla na If I be an	ENERATOR'S CERTIFICATION: I hereby of sified, packaged, marked, and labelled/pl tional government regulations, including ap am a large quantity generator, I certify the economically practicable and that I have so diffuse threat to human health and the enlect the best waste management method the	acarded, and are in all resp plicable state regulations. at I have a program in place elected the practicable meth vironment; OR, if I am a sma	ects in proper condition for e to reduce the volume and nod of treatment, storage, of all quantity generator, I have tell I can afford.	or transport d toxicity of or disposal	by high waste current	generate y availab	ording to d to the o le to me	applicable legree I h which mini ze my was	ave determined to imizes the present
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NIFORM HAZARDOUS WASTE MANIFEST (Continuation Sheet)	Do	Manifest cument No.	2. Page	required b	y Federa	
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Transporter Company Name Attn: Mg	artin H. Soltero			30825		
Transporter Company Name	5. US EFA ID NUMBER			Transporter's ID		
				porter's Phone		
Transporter Company Name 2	7. US EPA ID Number		P. State	Transporter's ID		
			Q. Trans	porter's Phone		
US DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number)		29. Conta	ainers	30. Total	31. Unit	R.
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